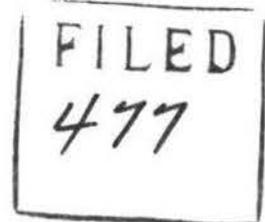


December 22, 1965

OPINION LETTER NO. 477

Honorable Thomas A. David
Director, Department of Revenue
Jefferson Building
Jefferson City, Missouri



Dear Mr. David:

This is in answer to your question as to the legality of your office advising the office of the prosecuting attorney of the home address furnished on the tax returns of certain named parties. The reason given for this request is that the prosecuting attorney has filed ouster suits against these parties for lack of residence.

Section 143.270, RSMo 1959, makes it illegal to divulge any information relative to or the contents of any income tax return filed under Chapter 143. Paragraph 2 of this section contains several exceptions to this requirement, one of which reads as follows:

"* * * provided, however, that this section shall not prohibit the director of revenue nor any agent, clerk or inspector from proceeding in the discharge of their official duties in the administration of the income tax laws, nor from giving evidence in any court, or before the state tax commission, in any proceeding brought to collect any tax due hereunder or to question or determine the validity or correctness of any assessment by the director of revenue under the terms of this chapter, or to punish any person for making false or fraudulent returns; * * * But no return regarding income tax, as provided for in this chapter, may otherwise be used as evidence in support of any charge of inaccuracy, delinquency or misconduct in the filing of tax returns required by law to be

Honorable Thomas A. David

filed with the director of revenue other than returns dealing with income tax as provided in this chapter."

We enclose herewith two opinions of this office which discuss the duties of the director of revenue in cases of this kind; the first No. 314 written to the Honorable M. E. Morris, Director of Revenue, in 1964, and the second to the Honorable Forrest Smith, then State Auditor on July 20, 1939.

However, it seems clear from the above quoted portion of Section 143.270, that such information may be given only in certain cases dealing with income tax returns. The question of residency of an officeholder is not relevant to any present charge of filing or failing to file accurate income tax returns. It is my opinion that neither you nor your agents should voluntarily provide the information requested.

Of course, if you are properly served with a subpoena requiring your testimony, the subpoena should be honored and the question of the propriety of divulging such information would be before the court.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

By
John G. Denman

Enclosures: Op. No. 314
10-5-64, Morris

Op. No. 83
7-20-74, Smith