

EMINENT DOMAIN:  
UNITED STATES:  
TAXATION-REAL PROPERTY:

Filing of declaration of taking and deposit of estimated compensation in court vests title to land in United States government under Federal condemnation law (40 U.S.C.A. § 258 a) so as to remove land from tax rolls in succeeding calendar year.

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FILED  
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OPINION NO. 76

January 30, 1969

FOR OPINION

Honorable Winston V. Buford  
Prosecuting Attorney  
Shannon County  
Eminence, Missouri 65466

Dear Mr. Buford:

This is in response to your recent letter requesting an opinion on the taxable status of certain land in Shannon County, Missouri, land that was the subject of condemnation proceedings by the United States Government in the year 1967. You specifically requested whether the county collector should ". . . abate these taxes for the 1968 tax year in favor of the individual land owners."

Section 43 of Article III, Missouri Constitution of 1945 provides that:

". . . No tax shall be imposed on lands the property of the United States; . . ."

The federal statute by which the United States Government condemns land reads in pertinent part as follows:

"Upon the filing said declaration of taking and of the deposit in the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in said declaration, title to the said lands in fee simple absolute, or such less estate or interest therein as is specified in said declaration, shall vest in the United States of America, and said lands shall be deemed to be condemned and taken for the use of the United States, . . ." (40 U.S.C.A., § 258 a)

Honorable Winston V. Buford

Although this statute needs very little interpretation, the federal courts have consistently stated that legal title passes to the United States Government upon the filing of the declaration of taking and the deposit in court of the estimated compensation for the land. Covered Wagon, Inc., v. Commissioner of Internal Revenue, 369 F.2d 629 (8th Circuit, 1966); Collector of Revenue, the City of St. Louis, v. The Ford Motor Company, 158 F.2d 354 (8th Circuit, 1946). You state that the United States Attorney filed declarations of taking in 1967, and you have subsequently informed us that the estimated compensation was simultaneously deposited in court. Since the deposit was made in 1967, it of course follows that title vested in the United States Government in 1967. Since the lien for 1968 Missouri Real Property Taxes accrues as of January 1, 1968, (§ 137.075, RSMo 1959; St. Louis Provident Ass'n. v. Gruner, 199 S.W.2d 409 (Div. 1, 1947)) the property for which declarations of taking had been filed and estimated compensation deposited in court prior to January 1, 1968, is tax exempt. United States v. Certain Land in City of St. Louis, 86 F.Supp. 297 (E.D., Mo., 1949), United States v. Certain Land in Jackson County, Missouri, 69 F.Supp. 565 (W.D., Mo., 1947), United States v. Certain Land in City of St. Louis, 51 F.Supp. 80 (E.D., Mo., 1943).

If 1968 taxes have not been paid on the land acquired by the United States in 1967, the County Court may upon application order the assessment on the land removed from the tax books (§ 137.270, RSMo 1959) and the county clerk shall make the correction (§ 137.260, RSMo 1959). Alternatively, the County Court may order the tax books as to this condemned land corrected on the first Monday in March (§§ 139.160, 139.170, RSMo 1959) when they consider the delinquent tax lists (§ 140.040, RSMo 1959).

#### CONCLUSION

It is the opinion of this office that filing of declaration of taking and deposit of estimated compensation in court vests title to land in United States government under Federal condemnation law (40 U.S.C.A. § 258 a) so as to remove land from tax rolls in succeeding calendar year.

The foregoing opinion, which I hereby approve, was prepared by my assistant Louren R. Wood.

Yours very truly,



JOHN C. DANFORTH  
Attorney General