

Answer by letter-Wieler

January 21, 1971

OPINION LETTER NO. 71



Mr. J. E. Riney, Chairman
State Tax Commission
Jefferson State Office Building
Jefferson City, Missouri 65101

Dear Mr. Riney:

This is in response to your request for an opinion concerning the legality of assessing summer homes, camps, cottages, or other structures erected on grounds leased from the United States government. Specifically, you have asked whether the owners of structures erected on land owned by the United States government pursuant to the Flood Control Act (33 U.S.C.A. §701, et. seq.) under a long term lease arrangement should be assessed for the value of such structures in the manner as prescribed for assessing all other real and personal property and whether such assessment should be entered on the real book as improvements on government leased ground.

Of course, inasmuch as title to the land is in the United States, no tax can be imposed upon it. See Article III, Section 43, Constitution of Missouri. However, the Missouri Supreme Court has held that the interest of a private corporation in a structure erected by that corporation pursuant to a lease with the Army on land owned by the United States is subject to local taxation. See State ex rel. Benson v. Personnel Housing, Inc., 300 S.W.2d 506 (Mo. 1957). The court determined that such property should be taxed as real estate. State ex rel. Benson v. Personnel Housing, Inc., *id.*, at page 510. In Iron County v. State Tax Commission, 437 S.W.2d 665, 668 (Mo. banc 1968), the court again affirmed that privately held possessory interests, such as those created by lease in publicly owned property are subject to tax, notwithstanding the exemption of publicly owned property. Referring to the Personnel Housing case, the court stated:

" . . . This decision is authority both for the proposition that a leasehold interest is real

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property for purposes of taxation and that the exemption accorded the Government from taxation thereon does not extend to a privately owned leasehold in that real estate." Iron County v. State Tax Commission, id. at page 669

Also, enclosed is a copy of an opinion issued August 14, 1961, to the Honorable Clarence H. Overbay, Jr., which holds that a lessee's leasehold interest may be assessed separately as realty.

Therefore, it is our opinion that summer homes, camps, cottages, or other structures erected on land owned by the United States government pursuant to the Flood Control Act under a lease arrangement should be assessed to the private owners of such structures as real property.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 68
8-14-61, Overbay