



JOHN C. DANFORTH
ATTORNEY GENERAL

OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

May 19, 1976

OPINION LETTER NO. 3

Mr. Theodore L. Johnson III
County Counselor, Greene County
Post Office Box 4302 G.S.
Springfield, Missouri 65804

Dear Mr. Johnson:

This opinion letter is in response to your request in which you ask:

"Is Springfield Workshops, Inc. exempt from real estate and personal property taxes?"

You have furnished us with information from the attorney for the Springfield Workshops, Inc., which states as follows:

"Springfield Workshop, Inc. is a corporation organized under 'General Not For Profit Corporation Law' of the State of Missouri. It received its Certificate of Incorporation on January 19, 1966.

"Springfield Workshop, Inc. operates under the supervision of the Missouri Department of Education under the provisions of §178.900 to §178.970 V.A.M.S., entitled 'Sheltered Workshops'. It provides work in a sheltered environment for mentally retarded and handicapped persons whose limited capabilities make them not employable in competitive business and industry and unsuited for vocational rehabilitation training. Approximately 150 handicapped and retarded persons are employed at the workshop.

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"The property in question is used exclusively for the purposes of the workshop as defined in §178.910 V.A.M.S. Springfield Workshop, Inc. has no shareholders. Its operations are supervised by an uncompensated Board of Directors. Springfield Workshop Inc. receives funds from the State of Missouri, currently at the rate of \$3.00 per day per handicapped worker, and receives income from the businesses for which it performs services. The money that the workshop receives is used for salaries of the handicapped workers, purchase of its building and operating expenses.

"Springfield Workshop, Inc. is exempt from Federal Income Taxes as provided by §501.(c) (3) of the Internal Revenue Code which exempts corporations operated exclusively for charitable and educational purposes."

The statutory provision relative to such exception is contained in subsection 5 of Section 137.100, V.A.M.S., which provides:

"The following subjects are exempt from taxation for state, county or local purposes:

* * *

"(5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;"

It has been said that one ground on which such a statute can be justified in the constitutional sense is that charitable institutions administer to human and social needs which the state might and does undertake to do so that the ultimate obligation of the state is discharged by the private charity. Defenders' Townhouse, Inc. v. Kansas City, 441 S.W.2d 365 (Mo. 1969). See also Section 6, Article X, Missouri Constitution.

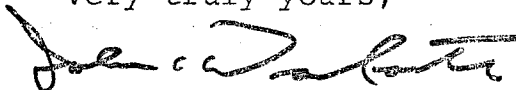
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It was also held in Townhouse, that each tax exemption case is peculiarly one which must be decided upon its own particular facts. From the Articles of Incorporation and the facts that we have it is clear that the workshop provides an obvious public service. Further, the Statement of Receipts and Expenditures for the years 1969 through 1975, which has been furnished us, additionally lead us to conclude that the workshop falls within the holding of Missouri Goodwill Industries v. Gruner, 210 S.W.2d 38 (Mo. 1948), and is within the tax exemption provisions of Section 137.100.

In reaching this conclusion, we recognize that the fact that the federal government does not tax the income derived from the property is not persuasive. Townhouse, supra. However, it appears reasonable to conclude that such an organization which performs a vital function in providing workshops for handicapped persons under Sections 178.900, et seq., RSMo, would reasonably be a charitable institution within our tax exemption statutes. In this respect we observe that although tax exemption statutes are strictly construed they must nevertheless be reasonably construed. Missouri Goodwill Industries, supra.

We therefore conclude under the facts furnished us that Springfield Workshops, Inc. is exempt from taxation pursuant to the provisions of Section 137.100.

Very truly yours,



JOHN C. DANFORTH
Attorney General