

TAXATION:

Drainage District Bonds subject to taxation
under the Laws of this state.

8-17
August 17, 1934

FILED
73

Honorable John E. Powell
Prosecuting Attorney
Princeton
Missouri

Dear Mr. Powell:

Receipt of your request for an opinion dated
July 18, 1934 is acknowledged.

Your letter is as follows:

"This county has a number of drain-
age districts, bonded in the usual
way, and a number of local persons
are the owners of a great number of
the bonds, who do not pay tax on the
bonds so held by them.

I am asked by the County Court of this
county to get your opinion on the ques-
tion as to whether such drainage bonds
are taxable.

I would like to have your opinion be-
fore our County Court convenes the
first of next month, if possible."

Section 6 of Article X of the Constitution of
the State of Missouri, in reference to revenue and taxation
of property in the State of Missouri, exempts certain pro-
perty in this state from taxation. Bonds issued by drain-
age districts or of any subdivision or municipality of the
state, are not included among the property exempted by such
Section 6.

Section 7 of the above Article X, provides:

"All laws exempting property from taxation, other than the property above enumerated shall be void."

Section 9742 Revised Statutes Missouri 1929, among other things, provides:

"* * * Taxes shall be levied on all property, real and personal, except as stated in the next section."

Section 9743 does not undertake to exempt bonds issued by a drainage district nor bonds issued by any municipal or political subdivision of the state, from taxation.

Section 9745 in part reads:

"* * * All notes, bonds and other evidences of debt made taxable by the laws of this state, held in any state or territory other than that in which the owner resides, shall be assessed in the county where the owner resides."

Section 9756, setting out the duties of an assessor, in reference to the assessment of property and providing for the assessor taking from the owner of property a list of the property owned by such person and in setting out what such list shall contain, in the ninth subdivision provides:

"* * * An aggregate statement of all solvent bonds, whether state, county, town, city, township, incorporated or unincorporated companies* * * ."

You will note the use of the words 'all solvent bonds' and we do not understand that the Legislature meant to include or refer only to state, county, town, city, township, incorporated and unincorporated companies' bonds, but that all bonds, including bonds issued by drainage districts, are required to be listed.

Section 9792 makes provision for the valuation to be placed on property by the assessor, as well as the arrangement of the property listed on the assessor's books. The sixth subdivision is as follows:

"* * * All moneys, notes, bonds and other credits, in a separate column;
* * * *"

In State ex rel. Union Electric Light and Power Company v. Baker 316 Mo. 853, 858, the Supreme Court of this state said:

"It is the well settled policy of our law that taxes shall be levied and collected for public purposes on all property within the territorial jurisdiction of the State, except that expressly enumerated as exempt. (Sections 1,2,3,6 and 7 of Article X, Constitution of Missouri; Sections 12752, 12753, 12754 and 12756, Revised Statutes 1919.) It is equally well settled, however, that before property may be taxed it must by law be subjected to taxation. (Valle v. Ziegler, 84 Mo. 219; Leavell v. Blades, 237 Mo. 1. c. 700; State ex rel. Am. Cent. Ins. Co. v. Gehner, 280 S. W. 1. c. 419; State ex rel. Koeln v. Lesser, 237 Mo. 1. c. 318.)"

Drainage district bonds are not only not exempted from taxation in this state, but the portions of Sections 9756 and 9792 above set out specifically require bonds to be listed by the owners, that the same shall be assessed, valued and contained in the assessor's books. No reason is apparent why drainage district bonds are not included within the meaning of the word "bonds" as used in the quoted sections of the statutes.

We are of the opinion that bonds issued by drainage districts located within this state and owned by residents

Honorable John E. Powell

-4-

August 17, 1934

of this state are subject to taxation under the general taxation laws of the State of Missouri.

Very truly yours,

GILBERT LAMB
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General.

GL:LC