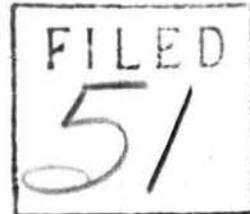


TAXATION: The School District is a "Municipal Corporation" and all its lands are exempt from taxation under Section 6, Article 10, Constitution of Missouri.

September 13, 1939

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Hon. Marion E. Lamb
Prosecuting Attorney
Randolph County
Moberly, Missouri

Dear Sir:

We are in receipt of your request for an opinion, under date of September 7, 1939, which reads as follows:

"Some time ago one of the banks in Moberly failed in which the Moberly School District had money deposited. In the final wind-up, the Moberly School District took over several hundred acres of land, which they now hold and which has raised the point in reference to taxation. The land is farming land, situated in Randolph County. The income from the land is applied to the regular school funds; that is, the amount over and above actual expenditures for up keep of the farm. The County Court of Randolph County has taken the position that this land, even though it is owned by the Moberly School District, is subject to taxes.

"Will you please give me your opinion as to whether or not this land is subject to taxes?"

Section 6, Article 10, Constitution of Missouri, reads as follows:

"The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile of more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies: Provided, That such exemptions shall be only by general law."

Section 9742, R. S. Mo. 1929, reads as follows:

"For the support of the government of the state, the payment of the public debt, and the advancement of the public interest, taxes shall be levied on all property, real and personal, except as stated in the next section."

Section 9743, R. S. Mo. 1929, partially reads as follows:

" * * * fourth, lands and other property belonging to any city, county or other municipal corporation in this state, including market houses, town halls and other public structures, with their furniture and equipments and all public squares and lots kept open for health, use or ornament; * * * "

A school district is a municipal corporation, and any land held by it is exempt from taxation. The definition of a "municipal corporation" is set out in the case of *Harris v. Bond Company*, 244 Mo. 644, l.c. 689, where the court said:

"A municipal corporation is, so far as its purely municipal relations are concerned, simply an agency of the State for conducting the affairs of government, and as such it is subject to the control of the Legislature. That body may place one part of the State under one municipal organization and another part of the State under another organization of an entirely different character." (*Williams v. Eggleston*, 170 U. S. 310, per Mr. Justice Brewer.)"

In the case of *State ex rel. Caldwell v. Little River Drainage District*, 291 Mo. 72, l. c. 79, the court said:

" * * * In its strict and primary sense the term 'municipal corporation' applies only to incorporated cities, towns and villages, having subordinate and local powers of legislation (*Heller v. Stremmel*, 52 Mo. 309). But in the larger and ordinarily accepted sense the term is applied to any public local corporation, exercising some function of government, and hence includes counties, school districts, townships under township organization, special road districts and drainage districts. (*Wilson v. Trustees of Sanitary District*, 133 Ill. 433, 464; *Rathbone v. Hopper*, 57 Kan. 240, 242.) It is in this latter sense that the term is used in the constitutional provision under consideration, because its language is 'counties and other municipal corporations.'"

"It is argued, however, that the term 'municipal corporations' is used in its technical and not in its commonly accepted sense, because, as it is claimed, the succeeding language of the section makes a separate, and distinct provision with reference to the property of school districts. This, it is contended, shows conclusively that school districts were not intended to be included within the designation, 'other municipal corporation.' But a reading of the section as a whole make it entirely clear that its latter provisions, in dealing with lots and buildings used exclusively for schools, have no reference whatever to the property owned and used by the school districts of the State in the conduct of its public schools. It is plain that if the property not only of school districts, but of organized townships and special road districts as well, are expressly exempted from taxation by the Constitution, it is because they are 'other municipal corporations.'"

Clearly, a school district is a municipal corporation under the Constitution and the statutes, to such an extent referred to under Sec. 6, Art. 10, of the Constitution, for the reason that it also exempts the property, real and personal, while under the second part of the same section it does not state the property real and personal, but limits the exemption to certain quantities of land, and does not exempt personal property.

Sec. 6, Art. 10, of the Constitution of Missouri is followed in the enacting Section 9743, supra. It will be noticed that the exemption reads "lands and other property," meaning that the personal property of a municipal corporation is also exempt. The fourth paragraph of Section 9743, supra, should be distinguished from the sixth paragraph of Section 9743, for the reason that the sixth paragraph applies to other entities or private individuals, except municipal corporations, in

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that it confines the exemption to be limited to the land or buildings thereon when the same are used exclusively for schools.

CONCLUSION

In view of the above authorities, it is the opinion of this department that the several hundred acres of land received by the Moberly School District in the liquidation of one of the banks in Moberly, which land is farming land and situated in Randolph County, is exempt from taxation.

Respectfully submitted,

W. J. BURKE
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

WJB:RW