

SHERIFFS: Motor vehicles owned by the sheriff of a  
MOTOR VEHICLES: second class county and used by him and his  
deputies exclusively in the transaction of  
his official duties, should be assessed  
against him personally, after which he is  
personally liable for the taxes thereon.

June 22, 1951

Honorable Ivella McWhorter  
Assistant Prosecuting Attorney  
Greene County  
Springfield, Missouri



Dear Miss McWhorter:

This department is in receipt of your recent request for  
an official opinion. You thus state your opinion request:

"The question has arisen whether or not  
under the following circumstances the  
Sheriff of Greene County, which is a  
second class county, would be liable for  
personal taxes upon the automobiles being  
used by his office for county purposes.

"According to the law the Sheriff and his  
deputies must furnish their own automobiles  
for use in their law enforcement duties and  
then will be paid for such use at the rate  
of 5¢ a mile which has been raised now to  
7¢ a mile. However, in Greene County the  
Sheriff has purchased the automobiles being  
used by his deputies for law enforcement  
purposes and the title to these cars state  
Greene County Sheriff's Office, c/o Glenn  
Hendrix, Sheriff, which technically puts  
the ownership of each automobile in Glenn  
Hendrix personally. These automobiles are  
used only in carrying out the duties of the  
Sheriff's office and are not for personal  
use by the Sheriff or his employees.

"Up to this point no license has been re-  
quired since the cars have painted on them  
that they are cars used by the Greene County  
Sheriff's office. It seems, however, that  
the County Assessor does not know whether  
or not such cars should be included on the  
personal tax assessment of Glenn Hendrix,

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Sheriff, since actually the cars do belong to him but are not used by him except for purposes of the Sheriff's office.

"The reason the matter seems to be important is because if a personal tax must be paid on each of these cars then the expense of operation of each automobile will go up to such an extent that it will be almost prohibitive for the Sheriff to continue furnishing such automobiles for use by the County."

You state that in Greene County, the sheriff has purchased the cars used by him and his deputies in the performance of the official duties of the sheriff, and that the ownership of such cars is vested in the sheriff personally. In other words, these cars are the personal property of the sheriff of Greene County. Normally, of course, personal property is assessed and taxes on it are paid by the owner of such personal property. If, where cars are owned by the sheriff and are used only in his official business, the cars are tax exempt; we must be able to point to a statute which creates an exemption. In this connection the Missouri Supreme Court, in the case of *In Re First National Safe Deposit Company*, 173 S.W. 2d 403, 1.c. 405, said:

"It is the general rule that taxing statutes are to be strictly construed in favor of the taxpayer, and against the taxing authority; but this does not extend to exemption provisions of such statutes. The applicable rule in the latter connection is as stated in *State ex rel. St. Louis Y.M.C.A. v. Gehner*, 320 Mo. 1172, 11 S.W. 2d 30, 34: \* \* \* no such exemption can be allowed, except upon clear and unequivocal proof that such release is required by the terms of the statute. If any doubt arises as to the exemption claimed, it must operate most strongly against the party claiming the exemption. \* \* \* "Such statute and constitutional provisions are construed with strictness and most strongly against those claiming the exemption. \* \* \* the burden is on the claimant to establish clearly his

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right to exemption." \* \* \* See, also State ex rel. Spillers v. Johnston, 214 Mo. 656, 113 S.W. 1083, 21 L.R.A., N.S. 171; 1 Cooley on Taxation, 3d Ed., 357, 358."

Section 137.100, RSMo 1949, lists certain property which shall be tax exempt. That section reads:

"The following subjects shall be exempt from taxation for state, county or local purposes.

"(1) Lands and other property belonging to this state;

"(2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments and on public squares and lots kept open for health, use or ornament;

"(3) Lands or lots of ground granted by the United States or this state to any county, city or town, village, or township, for the purpose of education, until disposed of to individuals by sale or lease;

"(4) Nonprofit cemeteries;

"(5) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies heretofore organized, or which may be hereafter organized in this state;

"(6) 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 shall be exempted from taxation for state, city, county, school, and local purposes; provided, however, that the exemption herein granted shall not include

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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 be used wholly for religious, educational or charitable purposes."

Nothing in the above section could possibly be construed as being applicable in the instant situation.

In this connection the Missouri Supreme Court, in the case of State ex rel. Globe-Democrat Publishing Company v. Frederick Gehner, Assessor, et al., 316 Mo. 694, l.c. 696, states that:

"The policy of our law, constitutional and statutory, is that no property than that enumerated shall be exempt from taxation.  
\* \* \*"

Section 137.075, RSMo 1949, states:

"Every person owning or holding real property or tangible personal property on the first day of January including all such property purchased on that day, shall be liable for taxes thereon during the same calendar year."

Since the cars in question are the personal property of the sheriff of Greene County, and since there is no provision in Missouri law which would make them tax exempt, we believe that they should be assessed against the sheriff personally, and that he personally is liable for the taxes thereon.

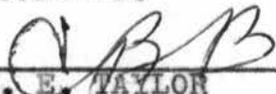
#### CONCLUSION

It is the opinion of this department that motor vehicles personally owned by the sheriff of Greene County, Missouri, and used exclusively by him and his deputies in the transaction of the official duties of the sheriff, should be assessed against the sheriff personally, after which he is personally liable for the taxes thereon.

Respectfully submitted,

HUGH P. WILLIAMSON  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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