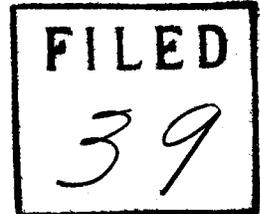


TAXATION: Merchants' and manufacturer's tax against frozen goods.

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June 25, 1942



Mr. Chris. F. Hessler  
County Assessor  
Buchanan County  
St. Joseph, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you request an opinion from this department as follows:

"The question has come up here in regard to paying Merchants & Manufacturer's tax against frozen goods. Most of the merchants do not want to pay a tax on frozen goods, will you kindly give me an opinion as to what to do about this matter."

Under Section 10936 R. S. Mo., 1939, it is provided that a tax shall be levied on all property, real or personal, except such taxes as are exempt under Section 10937 R.S. Mo., 1939.

Under the Constitution, certain exemptions are granted. We refer to Section 6 of Article 10. This section 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 or more distant from such cities or towns, to the extent of five acres, with the buildings thereon,

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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 7 of Article 10, reads as follows:

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

Since the subject of your inquiry does not fall within the exempted class mentioned in said Section 6, supra, then any statute which would attempt to exempt any other property would be in violation of said Section 7 of the Constitution. In our research of the statutes, however, we do not find where such goods, because of the fact that they are "frozen" would be exempt from taxes. Numerous cases hold that exemption statutes must be strictly construed and unless the person claiming exemptions can clearly show himself within the provisions of such exemption sections, then he is subject to taxation.

CONCLUSION

From the foregoing, it is the opinion of this department, that merchants and manufacturers should pay the tax against "frozen" goods.

Respectfully submitted

APPROVED:

TYRE W. BURTON  
Assistant Attorney General

ROY McKITTRICK  
Attorney General

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