TAXATION:
ASSESSMENT OF
PROPERTY:

A person owning or holding property in Missouri on the first day of June, is liable for taxes thereon, regardless of the fact that he has been assessed in another state for taxes on such property.

August 11, 1942

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FILED
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Mr. Rudolph Lebonia
Assessor of Atchison Township
Nodaway County
Clearmont, Missouri

Dear Sir:

This is in reply to your letter of recent date wherein you request an opinion from this department on the question of the assessment of taxes on properties held or owned by persons who have come to this State and who have been assessed on such property while residing in another state, but who own or hold the property on June 1st, of this year in this State.

From your letter, it seems that the persons whom you propose to assess have come from the State of Iowa and they are taking the position that since that State fixes the assessment date as of January 1st, and since they have been taxed as of that date, then the State of Missouri would be prohibited from taxing the same property which they own or hold on June 1st, of this year.

Section 10940 R. S. Mo., 1939, provides as follows:

> "Every person owning or holding property on the first day of June, including all such property purchased on that day, shall be liable for taxes thereon for the ensuing year."

Under Section I of Article X of the Constitution of Missouri, it is provided as follows:

> "The taxing power may be exercised by the general assembly for state purposes, and by counties and other municipal corporations, under authority granted to them by the general assembly, for county and other corporate purposes."

Section 6 of said Article exempts property in the following language:

> "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, 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."

By the foregoing sections, it will be seen that the property if owned or held in the State of Missouri on the first day of June, is liable for taxes unless it comes within the exemptions provided in Section 6 supra.

We think that the contention of the Iowa taxpayer is met by the statement of the court in the case of State ex rel v. Gehner, 9 S.W. (2d) 621 - 623, wherein the court said:

> "Each state is sovereign, and, where it has a right to impose a tax, it cannot be deterred from imposing it by the fact that some other state has seen fit to tax the same property. It is not double taxation." (Citing cases.)

This principle was announced by the Supreme Court of this State en banc, July 1928. Following this principle, the fact that the taxpayer has been assessed in some other State on this property, that would not prohibit the State of Missouri from assessing the property if it is owned or held by a taxpayer in the State on the first day of June.

CONCLUSION

It is therefore the opinion of this department, that even though a person has been assessed on property which he owned or held in the state of Iowa on January 1st, yet it is his duty if he owns or holds that property in the State of Missouri on June 1st, to return such property for assessment and taxing purposes.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

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