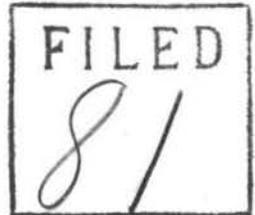


TAXATION: Church not required to pay taxes on property used for religious or charitable purposes where the property does not exceed one acre in area.

November 26, 1943



Honorable William E. Shirley
Prosecuting Attorney
Adair County
Kirksville, Missouri

Dear Mr. Shirley:

The Attorney General wishes to acknowledge receipt of your letter of November 24, in which you request an opinion of this Department.

This opinion request, omitting caption and signature is as follows:

"The Catholic church at Kirksville owns two lots. On one of these lots is a church; the other the house in which the priest lives. They did not have as much ground here as they desire and they have bought three lots.

"These three lots have a frontage of 172 feet and are 108 feet deep. The purpose of buying this additional ground was that they desire to build a new church and rectory. These three lots are in the name of the Bishop; as I understand it that is the way they take title to all the church property.

"The assessor has placed those three lots on the books and the assessor contends that the church should pay taxes on the three lots. The church contends that they should not pay taxes.

"Will you kindly advise me as to whether or not those three lots should be taxed."

It appears from the above request that the Catholic church in your city has purchased three lots adjacent to the

lots now occupied by the church and rectory. These three lots appear to have been purchased for the purpose of building a new church and rectory.

The taxation of property of this type is governed by Section 6 of Article 10 of the Constitution of Missouri, which provides 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, 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."

It will be noted from the above Constitutional provision that the last sentence states that:

"Provided, that such exemptions shall be only by general law."

Consequently, we examine the Statutes of Missouri and find that Section 10937, R. S. Mo., 1939, provides as follows:

"The following subjects are exempt from taxation: * * *; sixth, 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, when the same are used exclusively for religious worship, for schools or for purposes purely charitable, shall be exempted from taxation for state, county or local purposes."

Therefore, we see that by provisions of the Constitution of Missouri, and also by Statutes enacted by the Legislature of the State of Missouri, property which is used for religious purposes with the buildings thereon are exempt from taxation

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so long as the area of the property does not exceed one acre. This is true so long as the property is located within an incorporated city or town or within one mile of the limits thereof, which appears to be the situation in this case. As a result, it is the opinion of this Department that if the combined property to-wit: the two lots on which the present church and rectory stand and the three lots recently purchased, do not exceed one acre in area, such property is not subject to taxation. Should such property exceed one acre in area, only that part in excess of the one acre would be subject to assessment for taxation purposes.

Respectfully submitted,

John S. Phillips
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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