TAXATION:
CONSTITUTION:
CITIES:

Under Section 6, Article X, Constitution of Missouri, 1945, property of the City of Sedalia, Missouri, is exempt from taxation.

FILED
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July 10, 1947

7/15

Honorable Leo J. Harned
Prosecuting Attorney
Pettis County
Sedalia, Missouri

Dear Sir:

This will acknowledge receipt of your request for an official opinion, which reads:

> "I would appreciate it if you would give me an opinion on the following: (1) The city of Sedalia owns some nine hundred acres of land of which a part is being used for an air port and is being leased to an individual who operates a flying school; the other part of the land is being rented to farmers who are farming it and are paying rent to the city. The question I have is:
>
> "Is this land that is being rented subject to school taxes in the local school district in which said land is located?"

Section 6, Article X of the Constitution of Missouri, 1945, specifically exempts all property of the state, counties and other political subdivisions thereof, and reads:

> "All property, real and personal, of the state, counties and other political subdivisions, and non-profit cemeteries, shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies may be exempted from taxation by general law. All laws exempting from taxation property other than the property enumerated in this article, shall be void."

"Other political subdivisions," as used in Section 15, Article X, Constitution of Missouri, 1945, have been defined to include cities, and reads:

> "The term 'other political subdivision', as used in this article, shall be construed to include townships, cities, towns, villages, school, road, drainage, sewer and levee districts and any other public subdivision, public corporation or public quasi-corporation having the power to tax."

As we read your request, there can be no question but that the City of Sedalia does own the 900 acres of land in question.

Section 6, Article X of the Constitution of Missouri, 1945, supersedes Section 6, Article X of the Constitution of Missouri, 1875, which specifically exempted from taxation all property of the state, counties and other municipal corporations and cemeteries. The Supreme Court of this state construed Section 6, Article X of the Constitution of Missouri, 1875, as it affected property belonging to drainage districts. It held that drainage districts come within the purview of other municipal corporations as used in that provision, and furthermore, held that said property involved was used exclusively in the discharge of its prescribed governmental function, and, therefore, was exempt from taxation. In the case of Grand River Drainage District vs. Reid, 111 S.W. (2d) 151, l.c. 152, the court said:

> "State ex rel. Caldwell v. Little River Drainage District, Dec. 19, 1921, 291 Mo. 72, 81, 236 S.W. 15, 17 (4), held personal property (office furniture, engineering instruments, et cetera) owned by a drainage district and used exclusively in discharging its governmental functions was exempt from taxation for state and county purposes, stating: 'Our conclusion is that the defendant is a municipal corporation within the meaning of that term as used in the provision of the Constitution dealing with tax exemptions, and that its property, used exclusively in the discharge of its prescribed governmental function, is exempt from taxation.' So, too, State ex rel. Kinder v. Little River

Drainage District, Dec. 31, 1921, 291 Mo. 267, 236 S.W. 848, 850, held that drainage districts are 'municipal corporations' within the meaning of said section 6, art. 10, Mo. Const., 291 Mo. 267, loc. cit. 278 (IV), 236 S.W. 848, loc. cit. 851 (IV), 852; and, also, that the portions of a drainage district's detention basins 'necessary to store the surplus water in flood time' but devoted to cultivation when not needed for storage purposes was acquired for authorized purposes and was exempt from general state and county taxes, stating, with reference to such cultivated realty: 'It would be the duty of the district to husband its resources in that way and obtain any revenue it could by the use of such land, and such use would not subject the land to taxation.' Loc. cit. 282 of 291 Mo., loc. cit. 852 (3) of 236 S.W. respectively. However, the opinion points out, loc. cit. 276, of 291 Mo., loc. cit. 850, of 236 S.W. respectively, that drainage district legislation authorizes such districts to protect against the injurious effect of water and does not authorize them, as corporate entities, to engage in commercial or money-making enterprises, or to acquire property, real or personal, for speculative or commercial purposes."

See also State ex rel. Caldwell vs. Little River Drainage District, 291 Mo. 72, l.c. 81, and State ex rel. Kinder vs. Little River Drainage District, 291 Mo. 267, l.c. 273, 281, 282.

Just why the court went so far as to determine if said drainage districts were holding said property under authority of law of their creation, we can not determine. The court might have concluded that question would necessarily follow and, therefore, it decided to pass on both questions at the same time.

Section 6, Article X of the Constitution of Missouri, 1945, is definitely a prohibition against the Legislature of the state taxing any land of the state, county or other

political subdivision thereof. Said provision does not require the property of other political subdivisions to be used for any certain purposes, but it is an unqualified exemption, the only prerequisite being that it is property of other political subdivisions. However, the same constitutional provision does exempt certain other property belonging to anyone when used for certain specified purposes.

CONCLUSION

In view of the foregoing constitutional tax exemption on property belonging to state, counties and other political subdivisions, and decisions construing similar provisions, it is the opinion of this department that Sedalia, Missouri, comes within the purview of Section 6, Article X of the Constitution of Missouri, 1945, as "other political subdivision" and, therefore, the land in question is exempt from taxation for all purposes.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

ARH:VLM