

TAXATION:

Property acquired by taxation-exempt organization after assessment date liable for the taxes for year in which acquired.

May 31, 1950

OPINION NO. 66

Honorable O. R. Newcomer
Prosecuting Attorney
Buchanan County
St. Joseph, Missouri



Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"The County Assessor of Buchanan County, on January 1, 1949, assessed the value of a certain parcel of real estate in St. Joseph, Missouri, for the year 1949, at \$4,050.00. At the prevailing rate, the tax amounted to \$101.25 for the year 1949. On or about June 1, 1949, the property in question was purchased by the Wyatt Park Baptist Church, and has been used since that date as a parsonage. When the property was sold the seller agreed to pay 5/12 of the tax of \$101.25, and a proper allowance was made in the purchase price of the property to cover this amount. While the Wyatt Park Baptist Church, is willing to pay this amount as taxes for 1949, it takes the position that since this property became exempt from taxation on June 1, 1949, under the Constitution and General Laws, of this State, no tax on this property may be collected after it came into the possession of the Wyatt Park Baptist Church.

"I would appreciate receiving at your convenience an expression of your views regarding this matter."

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The case of St. Louis Provident Association v. Gruner, 355 Mo. 1030, 199 S.W.2d 409, involved a situation very similar to that presented by you. In that case the plaintiff, a charitable organization, had acquired certain real property on February 26, 1944. The tax date at that time was June 1. The question was whether or not the lien for taxes attached on June 1 of 1943 so that the plaintiff was liable for the taxes due in 1944. The court held that the plaintiff was liable for the taxes. Its conclusion was stated as follows at 199 S.W.2d l.c. 411:

" * * * Our conclusion is that the state had at least an inchoate lien from June 1, 1943 for taxes due on this land in 1944 which became fixed in amount by relation back to that date after the assessment and levy was completed. For discussion of this rule of relation back, see 61 C.J. 924, Section 1175 and cases cited. It may be noted that the rate of the state tax had been fixed prior to the assessment date by Section 11039, and that the rate of the blind pension tax had been so fixed by Section 9461. See also Laws 1943, p. 1066, Mo. R.S.A. Section 11039a. Of course, if the state's lien for the entire tax due in 1944 attached as of June 1, 1943, there can be no proration of the tax. We, therefore, hold that plaintiff has no exemption from the taxes due in 1944 on the land involved nor any part thereof."

The tax date was changed by an act found in Laws of Missouri, 1945, page 1799, to January 1. Section 7 of that act, relating to the state's lien for taxes, provided in part as follows:

" * * * real property shall in all cases be liable for the taxes thereon, and a lien is hereby vested in favor of the state in all real property for all taxes thereon, which lien shall accrue and become a fixed encumbrance as soon as the amount of the taxes is determined by assessment and levy, and said lien shall be enforced as hereafter provided in this chapter; said lien shall continue to be enforced until all taxes, forfeitures, back taxes and costs shall be fully paid or the land sold or released as provided in this chapter."
(Underscoring ours.)

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The underscored portion is a change from the provision of Section 10941, R.S. Missouri, 1939, which was in effect at the time of the decision in the St. Louis Provident Association case, supra. However, it has been held that this change does not affect the time at which the lien for taxes attaches. The lien has been held to continue to attach as of the assessment date or January 1. In the case of United States v. Certain Land Situate in City of St. Louis, 86 Fed. Supp. 297, the United States District Court for the Eastern District of Missouri concluded as follows at l.c. 302:

" * * * When we consider the Missouri decisions dealing with tax liens; the definitions of the words 'accrue' and 'fixed'; together with Secs. 4 and 7, pp. 1800-1801, and 7, p. 1861, of the Missouri Laws of 1945, emphasis is added to the belief that the legislature meant by the new sections that an inchoate lien for taxes commenced on January 1, 1946, for 1946 taxes, and that said lien was a present enforceable demand which, under the new clause, became a fixed or settled lien in amount when the assessment and levies were determined."

In view of this holding, we feel that the conclusion of the Supreme Court in the St. Louis Provident Association case is applicable here, and the property is subject to a lien for taxes for the year 1949.

CONCLUSION

Therefore, it is the opinion of this department that when real estate is acquired by a tax-exempt organization after the assessment date, or January 1, the property remains subject to a lien for taxes for the year in which it was acquired by the tax-exempt organization.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
Attorney General