

March 18, 1970

OPINION LETTER NO. 142

Honorable James L. Paul
Prosecuting Attorney
McDonald County Court House
Pineville, Missouri 64856



Dear Mr. Paul:

This letter is in response to your request for a ruling in which you inquired whether a small, incorporated, non-profit country club and golf course, partially financed by FHA funds, is the proper subject for property tax assessment.

There are certain well established rules which must guide any determination of whether certain property is exempt from taxation. Generally, all property is liable to taxation unless specifically exempted. Taxation is the rule, exemption is the exception; and claims for exemption are not favored in the law. Bethesda General Hospital v. State Tax Commission, 396 S.W.2d 631 (Mo. 1965); Midwest Bible & Missionary Institute v. Sestric, 260 S.W.2d 25 (Mo. 1953). Exemption statutes must be strictly construed against the taxpayer and the burden is on the party claiming the exemption to establish clearly his right thereto. In re First Nat. Safe Deposit Co., 173 S.W.2d 493 (Mo. En Banc 1943); State ex rel St. Louis Young Men's Christian Ass'n v. Gehner, 11 S.W.2d 30 (Mo. En Banc 1928). However such statutes also should be reasonably construed so as not to curtail the intended scope of the exemption. Frisco Employes' Hospital Ass'n. v. State Tax Commission, 381 S.W.2d 772; St. Louis Gospel Center v. Prose, 280 S.W.2d 927 (Mo. 1955).

Constitutional exemption from taxation of certain property is granted by Article X, Section 6 and Article III, Section 43 of the Missouri Constitution.

Article X, Section 6 provides:

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.
(Emphasis added)

Article III, Section 43 provides in part:

. . . No tax shall be imposed on land the property of the United States; . . .

Implementing the constitutional provisions of Section 6, Article X, is Section 137.100, RSMo, which provides:

The following subjects are exempt from taxation for state, county or local purposes:

- (1) Lands and other property belonging to this state;
- (2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments and on public squares and lots kept open for health, use or ornament;
- (3) Nonprofit cemeteries;
- (4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state;
- (5) All property, real and personal actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes.

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With these principles in mind, we must conclude that the real estate referred to in your inquiry cannot be exempt unless found to be owned by the state or federal government or a political subdivision or, if privately or corporately owned, found to be used exclusively for religious, educational or charitable purposes and not held for private or corporate profit. The situation you pose, therefore, precludes exemption status. The mere fact that an incorporated country club finances the purchase of real estate with federal funds does not remove the ownership of property purchased from the country club. The property is not owned by the federal government in any sense. Likewise, although the situation posed presupposes that the country club is non-profit, the further requirement for exemption that it be used exclusively for religious, educational, or charitable purposes is not present. Property used as a country club and golf course by members most certainly cannot be said to be used, in any sense, for those purposes which exempt property from taxation.

Therefore, we must conclude that real estate purchased by a non-profit corporation for the purpose of building a country club and golf course for use by members such purchase being financed by federal FHA funds, is subject to property tax assessment.

Yours very truly,

JOHN C. DANFORTH
Attorney General