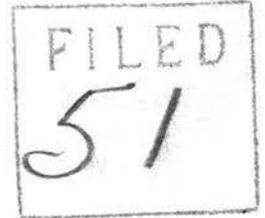


INSURANCE: Personal property in the office of a farmers
TAXATION: mutual insurance company is taxable in this State.

April 16, 1948



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Honorable Howard B. Lang, Jr.
Prosecuting Attorney
of Boone County
Columbia, Missouri

Dear Sir:

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

"The Assessor and Collector of this county would like an opinion as to whether or not a farmers mutual insurance company, organized under Article 15 of Chapter 37, R.S. Mo. 1939, is subject to the assessment and payment of personal property taxes. A company here in Columbia has refused to pay personal property taxes assessed on office furniture and other personal property, claiming that under the provisions of Section 6177 they 'are hereby exempted from the provisions of this chapter as applicable to general insurance companies'."

One of the established rules of statutory construction is that statutes authorizing a particular tax are construed against the taxing authorities. However, a tax exemption statute is to be construed strictly against one claiming exemption thereunder. See: American Bridge Co. vs. Smith, 179 S.W. (2d) 12, 352 Mo. 616.

The Constitution of Missouri, 1945, namely Section 6, Article X thereof, prescribes what property may be exempted from taxation, and concludes that all laws exempting from taxation, property other than the property enumerated in said Article, shall be void. Section 6 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."

Therefore, in view of the foregoing constitutional amendment, unless the property of this Farmers Mutual Insurance Company is exempt from taxation under the foregoing amendment there must clearly be a statute expressly exempting said property from taxation, or it is subject to taxation. The foregoing amendment to the Constitution does not specifically exempt such personal property from taxation. It is well-settled that the Legislature cannot increase the list of tax exemptions. See: State ex rel. Tompkins vs. Shipman, 234 S.W. 60, 290 Mo. 65.

It might be considered constitutional if the Legislature should enact a law specifically exempting such property of farmers mutual insurance companies from taxation under authority and by virtue of that part of Section 6, Article X, supra, which reads, in part:

"* * * and all property, real and personal, not held for private or corporate profit and used exclusively for * * * * * or for agricultural and horticultural societies may be exempted from taxation by general law. * * *".

However, we need not pass upon the constitutionality of such a provision, because it is, more or less, a moot question, in the absence of such legislation at this time.

From your request it appears as if this farmers mutual insurance company is contending such personal property is exempt from taxation solely by reason of Section 6177.

page 326, Laws of Missouri, 1947, which reads, in part:

"Hereafter all farmers' mutual fire and lightning insurance companies now organized or hereafter organized in this state for the sole purpose of mutually insuring the property of the members, and for the purpose of paying any loss incurred by any member thereof and expenses of the company by assessment, or for anticipated losses and expenses for two years next following the date of the assessment, as provided by their constitution and by-laws, are hereby exempted from the provisions of this chapter as applicable to general insurance companies, and nothing therein shall be so construed as to impair or in any manner interfere with any of the rights or privileges of any such companies doing a mutual insurance business in this state as herein provided: * * *".

Section 6177, supra, is a part of Chapter 37, R.S. Mo. 1939. In that same Chapter relating to insurance companies, we find Section 6092, page 1025, Laws of Missouri, 1945, which reads:

"The real and tangible personal property owned by insurance companies operating in this state shall be assessed and taxed as is real and tangible personal property owned by individuals, and the payment thereof and the distribution of the amounts received shall be in the manner provided by the general revenue laws of this state."

We are faced with a very unusual situation. In view of the two statutes hereinabove referred to, one exempting farmers mutual insurance companies from the provisions of Chapter 37, as applicable to general insurance companies, and the other specifically taxing real and tangible personal property owned by insurance companies operating in this State. Another well-settled rule of construction is that an exemption from taxation can be sustained only when expressed in explicit terms, and it cannot be extended beyond

Honorable Howard B. Lang, Jr. -4-

the plain meaning of those terms. National Cemetery Association of Missouri vs. Benson, 344 Mo. 784, 129 S.W. (2d) 842, 122 A.L.R. 893,

As we construe the foregoing provisions, farmers mutual insurance companies are exempt from the provisions of Chapter 37, and, therefore, Section 6092, supra, taxing real and tangible personal property owned by insurance companies does not apply to farmers mutual insurance companies. However, we are of the opinion that such general exemption from the provisions of Chapter 37, R.S. Mo. 1939, is not sufficient to exempt such personal property of a farmers mutual insurance company from taxation, in that it does not fully comply with the rule laid down in National Cemetery Association vs. Benson, and American Bridge Co. vs. Smith, supra. By merely saying that the provisions of laws applicable to insurance companies do not apply to such farmers mutual insurance companies, does not create a specific and express exemption from taxation of personal property of such companies.

CONCLUSION

Therefore, it is the opinion of this Department that, in the absence of an express and specific exemption under the law, of personal property owned by farmers mutual insurance companies, such property is taxable in this State.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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