

ASSESSMENTS:
TAXATION :

Personal property on which the United States Government holds a mortgage is taxable to the mortgagor.

July 20, 1939

4/21



Mr. W. H. Massingill
Assessor of Atchison County
Rock Port, Missouri

Dear Sir:

This will acknowledge receipt of your letter of July 14, 1939, submitting for our opinion this question: Is corn "sealed" by the United States Government because securing a loan made by the government, assessable as personal property to the owner thereof?

We assume that by the use of the word "sealed" you mean that the corn has been secured or fastened in a crib or storage place by the government.

Section 9742 R. S. Mo. 1929 provides:

"For the support of the government of the state * * * * * taxes shall be levied on all property, real and personal, except as stated in the next section."

The following section (9743) does not under any construction attempt to exempt the personal property with which we are concerned from taxation, except insofar as it may exempt from taxation the note secured by the mortgage on the corn, which note is owned by the government.

Section 9756, Laws of 1937, page 570 requires certain property to be listed with the assessor. After the enumeration of certain items, it reads: "eleventh, all other property not above enumerated", (there are some exceptions made which do not effect this question) and also provides there shall be listed "every other species of property not exempt by law from taxation". These broad terms would include the corn that has been sealed by the government.

July 20, 1939

Personal property covered by mortgage securing a note is nowhere exempt from taxation by the laws of this state. The mere fact that in this instance the United States Government is the mortgagee has no bearing on the question. This is to be seen by what is said in the case of Reynolds vs. Stepanek, 99 S. W. (2d) (Mo. Supreme) l.c. 68, where it is said:

"* * * * * a mortgage is but a security for the payment of the debt or the discharge of the engagement for which it was originally given, and until the mortgagee enters for breach of condition, and in any respect until final foreclosure, the mortgagor continues the owner of the estate. * * * * *"

By the provisions of Sections 9745 and 9746 R. S. Mo. 1929, personal property is made assessable to the owner thereof, and in this instance the mortgagor as above illustrated is the owner of this corn.

CONCLUSION

Therefore, it is our opinion that the fact that the United States Government holds a mortgage on personal property does not exempt said property from taxation to the owner in this state.

Respectfully submitted,

LAWRENCE L. BRADLEY
Assistant Attorney-General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney-General

LLB/ww