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State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
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June 7, 2023
OPINION 23-0052

Richard I. "Rich" Ducote, Jr., CLA
Rapides Parish Assessor
701 Murray Street, Suite 101
Alexandria, Louisiana 71301

119 TAXATION - Exemptions, general

La. Const. art. VII, §21(B)(1)(a)(i)

Property owned by a religious organization must meet the requirements set forth in La. Const. art. VII, §21(B)(1)(a)(i) to be exempt from ad valorem taxation.

Dear Mr. Ducote:

You have requested an opinion regarding an exemption from ad valorem tax of certain real property. According to your April 3, 2023 opinion request, a church purchased a tract of land from a private individual with a commercial building location on it. The building is, and has for many years, been occupied by a tenant pursuant to a commercial lease. The tenant operates the commercial building as a fast-food restaurant. When the church purchased the property, it acknowledged in the publically recorded sale document that the vendee/church is purchasing the property subject to the commercial lease. The commercial lease is also recorded in the public records of Rapides Parish. The lease has an initial three-year term with a five-year extension at the discretion of the lessee. At the time of the purchase, the lease was in the first year of the initial term of the lease. You state that it appears that the use of the property has not changed as a result of the sale to the church.

You state that the church has requested that you remove the property from the active tax roll and place it on the exempt roll due to the church's 501(c)(3) designation. You have now contacted this office for clarification as your reading of La. Const. art. VII, §21(B)(1)(a)(i) does not allow for the exemption.

We note at the outset that pursuant to La. Const. art. VII, §18(E), the authority to review the correctness of ad valorem tax assessments lies with the assessor, parish governing authority, Louisiana Tax Commission, and finally, the courts.¹ In addition, tax exemptions are to be strictly construed in favor of the State and "must be clearly and unequivocally and affirmatively established" by the taxpayer.² With these principles in mind, we focus now upon the issues presented in your request.

¹ La. Const. art. VII, §18(E). "(E) Review. The correctness of assessments by the assessor shall be subject to review first by the parish governing authority, then by the Louisiana Tax Commission or its successor, and finally by the courts, all in accordance with procedures established by law."

² *Harrah's Bossier City Inv. Co., LLC v. Bridges*, 2009-1916 (La. 5/11/10), 41 So.3d 438, 446; *See also Vulcan Foundry, Inc. v. McNamara*, 414 So.2d 1193, 1197 (La.1982).

Louisiana Constitution art. VII, §21 sets forth exclusive exemptions from ad valorem taxes for specific types of property; it provides, in pertinent part, the following:

Section 21. In addition to the homestead exemption provided for in Section 20 of this Article, the following property and no other shall be exempt from ad valorem taxation:

. . . .

(B)(1)(a)(i) Property owned by a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member thereof and which is declared to be exempt from federal or state income tax;

. . . .

None of the property listed in Paragraph (B) shall be exempt if owned, operated, leased, or used for commercial purposes unrelated to the exempt purposes of the corporation or association.

(Emphasis added.)

La. Const. art. VII, §21.

It has been the long-standing opinion of this office that in order to qualify for the above exemption, the property must meet all four requirements set forth therein, namely:

1. The organization must be a nonprofit corporation or association organized exclusively for one of the designated purposes;
2. No part of the net earnings inure to the benefit of any stockholder or member of the organization;
3. Said nonprofit corporation or association must be exempt from federal or state income tax; and
4. None of the property of the nonprofit corporation or association is owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation or association.³

It is your responsibility as Rapides Parish Assessor, subject to review by the Louisiana Tax Commission and/or judiciary, to make the factual determination as to whether the above requirements are met in order to exempt or not exempt the property from taxation. In making this determination, you should note that Louisiana jurisprudence has

³ See La. Atty. Gen. Op. Nos. 05-0104, 01-371, 99-401, 99-238, 97-211, and 93-488.

consistently held that exemptions from taxation are strictly construed in favor of the taxing body and against the person claiming the exemption. Any possible doubt is fatal.⁴

Should you determine that the church and fast food establishment's operations, with respect to the property in question, satisfy the aforementioned requirements, exemptions from ad valorem taxes are appropriate.⁵ However, property that is leased for commercial gain without any restriction on the use of the property would be subject to ad valorem taxation.⁶ Thus, if the proper inquiry has lead you to the conclusion that the property owned by a religious organization that is leased purely for commercial gain, *i.e.*, to a corporation or entity which has no relationship to the purpose of the religious organization, it would be appropriate for you to conclude that the property is not exempt from ad valorem taxation.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

JEFF LANDRY
ATTORNEY GENERAL

BY: 
Lauryn A. Sudduth
Assistant Attorney General

by


⁴ See *Sherwood Forest Country Club v. Litchfield*, 2008-0194 (La. 12/19/08), 998 So.2d 56, *on reh'g in part*, 2008-0194 (La. 2/13/09), 6 So.3d 141, and *Zapata Haynie Corp. v. Carpenter*, 583 So.2d 867 (La. Ct. App.1991), *writ denied*, 589 So.2d 1071 (La.1991)).

⁵ La. Atty. Gen. Op. No. 01-323.

⁶ La. Atty. Gen. Op. No. 00-320.