EXEMPTIONS

December 31, 1934

OWNER OF PROPERTY WHICH IS EXEMPT FROM TAXATION MAY CLAIM EXEMPTION BY APPLICATION TO TAX ASSESSOR OR TAX COLLECTOR OR TO CLERK CIRCUIT COURT, WHILE TAX SALE CERTIFICATE IS OWNED BY THE STATE

Dear Sir:

On May 8th and July 10th, A. D. 1933, I rendered opinions concerning the time at which widows and veterans as the owners of property which is exempt from taxation should make application for the exemption.

The question of when an owner of property which is exempt from taxation must make application for the exemption is now before me for consideration. An opinion on this question will cover all property, which, of course, will include that belonging to widows and veterans, which is exempt from taxation. I have, therefore, decided to recall the two opinions above referred to and to render an opinion covering the entire question of when application for an exemption of property from taxation should be made.

There is no limitation in the Constitution upon the time within which an exemption from taxation may be claimed by the owner of property which is exempt from taxation. It is my opinion that the owner of property which is exempt from taxation may make application for and receive the benefits of an exemption at any time by applying to the Tax Assessor and have his property marked exempt on the tax roll, or, failing in this, he may make application to the Tax Collector and have the exemption allowed, or, failing in this, he may make application to the Clerk of the Circuit Court and receive the benefit of the exemption, so long as the tax sale certificate against the property is owned by the State. The question of whether or not a particular piece of property is exempt from taxation is, of course, a question of fact. The owner of property who desires the benefit of an exemption is required to make clear and convincing proof to the proper taxing official that the property is in fact exempt. Ordinarily, it is much easier for the taxpayer to establish the fact that the property is exempt by presenting proof thereof to the Tax Assessor than it is to undertake to present the proper proof to the Tax Collector or to the Clerk of the Circuit Court.

What has been said herein applies to real and to personal property except, of course, that no tax sale certificate is issued against personal property nor is the Clerk of the Circuit Court required to collect such taxes, this being the duty of the Tax Collector.

You will please consider that this opinion supersedes the opinion of May 8th and July 10th, A. D. 1933, above referred to.