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OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

March 9, 1939

Honorable Charley Lockhart  
State Treasurer  
Austin, Texas

Dear Sir:

Attention: Mr. H. Morris Stevens

Opinion No. O-435

Re: Article 7047e. Must a deed  
of trust from The Kansas City  
Life Ins. Co. to the Super-  
intendent of Insurance of  
Missouri bear the stamps?

We are in receipt of your letter of March 6, 1939, where-  
in you ask the following question:

"Would there be any note tax due on a deed of  
trust from The Kansas City Life Insurance Company to  
the Superintendent of Insurance for the State of  
Missouri, such instrument being offered for record in  
Hunt County, Texas."

No facts are given except such as are embodied in the  
question. We shall assume that the deed of trust is given for the  
security of policy-holders of the Kansas City Life Insurance  
Company in pursuance of Article 5717, Revised Statutes of Missouri,  
1929.

Article 7047e levies a stamp tax upon all obligations  
secured by certain classes of liens, and exempts only those  
taken by or on behalf of the United States or an instrumentality  
thereof.

We hardly believe it necessary to determine what the  
effect, if any, would be if the note and deed of trust with which  
we are now concerned were beneficially owned by the State of Missouri.

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For, any immunity from tax because of State ownership extends only to that property which properly belongs to the State. *Bonaparte v. Appeal Tax Court*, 26 L. Ed. 854; 61 C. E. 367.

As we understand, the Superintendent of Insurance of the State of Missouri is acting only in the capacity of trustee, the holder of a fund for the security of policy-holders. That State has no direct financial interest in the fund, but its interest is rather one of policy.

If the assumption which we have made herein is erroneous, kindly advise us.

The instrument should bear the stamps provided by the Act before being accepted for record.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*  
Glenn R. Lewis  
Assistant

ORL:N

APPROVED

*George B. Mason* *nyh*  
ATTORNEY GENERAL OF TEXAS