

COUNTY ASSESSOR: ) Not required to designate school district on land  
County Clerk ) tax book--Duty on County Clerk.

December 17, 1935.



Honorable Peyton Tabb  
Assessor of Lafayette County  
Lexington, Missouri

Dear Mr. Tabb:

Acknowledgment is herewith made of your letter of December 7, 1935, requesting an opinion of this office on the following matter:

"I am writing for your opinion as to whose duty it is to designate the school districts on the land tax books, I am unable to find any statute that seems to cover this point and find different counties following various plans.

Sec. 9261 Provides for assessor putting school district on list and Personal Book.

Sec. 9780 Gives minute details as to division and arrangement of assessor's books, but makes no provision for school districts, but does provide for road districts.

Sec. 9315 Provides that if any change of boundary lines is made, the county clerk shall be officially notified; (He being official custodian of the school records and maps.)

Sec. 9252 Provides county clerk shall receive compensation for figures in school tax column."

To arrive at a correct decision respecting the above inquiry it is necessary for us to understand the manner in which the assessment of taxes for school purposes was handled at the time our present Section 9261 R. S. Missouri 1929 developed into its present form. Prior to 1899 school taxes were extended in a separate book called the "School Tax Book", which tax book was divided into the various columns and it was also separated into the various school districts. It was the duty of the County Clerk to list the taxpayers in their respective school districts under this law. Section 8067 R. S. Missouri 1889.

The Supreme Court of the State of Missouri had occasion to pass upon the relative duties of the County Collector, the County Assessor and the County Clerk under the law as then existed. In the case of State ex rel. Hamilton vs. Brown, Collector, 72 S. W. 640, 172 Missouri 374, the Court approved the opinion of the trial court which stated among other things as follows, l. c. 379:

"The duty of making the 'school tax book' devolves upon the county clerk, which book shall be subdivided, corresponding to the districts in the county and numbered accordingly, and he shall place in the proper subdivisions: first, a list of the names, alphabetically arranged, of all persons owning any personal property in the districts, total value thereof and the amount of school tax assessed thereon; second, a list of all the lands and town lots, etc. (Sec. 8067, R. S. 1889.) The enumeration lists inform the county clerk of the amount required and the rate of taxation in each district and also the names of the resident taxpayers in such district, while the assessment of the county assessor, as returned in his lists, informs the clerk of the property owned by such resident taxpayer. From these two sources of information he is enabled to make up the 'school tax book.' The county clerk of Lincoln county in making up the school tax book containing the assessment complained of proceeded in the manner above indicated. The plaintiff as curator of Hamilton was returned by the district clerk as being

in District No. 4, and the county clerk, without ignoring the enumeration lists, could not have placed him elsewhere. The assessor is not required or authorized to determine the school district of a taxpayer; the 'assessor's book' which he makes up--legally made up--contains no such information. The assessor has to do with no particular tax, but his duty is ended when he has ascertained and listed all the taxable real and personal property in his county, with the name of the respective taxpayer (sec. 7531, R. S. 1889; amended, Laws 1893, p. 216), and made his assessment book therefrom.

'The assessor's book when turned over to the county court would not contain the number of the school district of any taxpayer, and hence the equalization board could not remedy any such wrong as is here complained of. The alleged wrong first arises, when the county clerk, after the assessor's books are corrected and adjusted, makes out the school tax book, and then fails to proceed in so doing as the law directs.\* \* \* \*'

This decision handed down February 24, 1903, construed the law as existed in 1898. As heretofore stated, in 1899 the law was materially changed in that the "School Tax Book" was done away with and the information theretofore contained in such was directed to be "extended by the county clerk upon the general tax books of the county." A proviso was then added to Section 8067 R. S. Missouri 1889 reading as follows:

"And it shall be the duty of the county assessor in listing property to take the number of the school district in which said taxpayer resides at the time of making his list, to be by him marked on said list and also on the personal assessment book, in columns provided for that purpose."

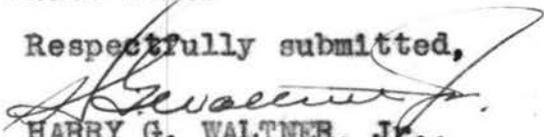
December 17, 1935.

By these amendments of 1899 it was the purpose of the Legislature to do two things, first, to abolish the expensive "School Tax Book" and consolidate it with the general tax books of the County, and second, to supply the County Clerk with some additional information which might be valuable to him in making out the tax books. The Legislature was careful to direct the place in which it was the duty of the county assessor to designate the school district of the taxpayer. The Legislature by its terms required the assessor to designate on the list the school district and to also place that designation in an appropriate column upon the personal assessment book. We cannot assume that the Legislature by using these distinct and specific terms in placing additional duties upon the county assessor which did not theretofore exist, intended that the duties should be by implication and construction extended to include further and additional duties which, had the Legislature so desired, they could have specifically provided for. We must remember that heretofore the entire duty and responsibility in designating school districts rested solely upon the county clerk and that by amendment certain specific duties have been placed upon the assessor which lighten the burden theretofore resting upon the county clerk. In view of these facts it would be substituting our own judgment for the judgment and discretion of the Legislature to hold that the county assessor was not only required to place that designation upon the list and the personal assessment book but was also required to place the designation of school districts upon the real estate assessment book.

CONCLUSION.

It is therefore the opinion of this office that the duty to designate school districts on the land tax books rests upon the county clerk and that the duty of the county assessor in this respect ends when he has made such designation upon the assessment list and upon the personal assessment book.

Respectfully submitted,

  
HARRY G. WALTNER, Jr.,  
Assistant Attorney General

APPROVED:

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JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General

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