

July 17, 1964



Honorable William H. Bruce, Jr.
Prosecuting Attorney
Reynolds County Courthouse
Centerville, Missouri

Dear Mr. Bruce:

Your recent request for an opinion of this office reads as follows:

"(1) When the Board of Equalization meets and sets a valuation for tax purposes on a particular tract of land, how soon thereafter may the County Assessor change the value thus set by the board?

"(2) Assuming that the board fixes the valuation in July and the assessor changes that figure the following spring, and the board meets again the following summer and fixes the valuation one more time at the board's original figure, must the owner be notified?"

Your first question asks for the earliest date that an assessor may "change" the valuation set by the Board of Equalization.

The assessor is required to make an annual assessment of property at its true value between the first day of January and the first day of June. Section 137.115 RSMo.

As assessment is an independent proceeding commencing on the first day of January each year as provided by Section 137.080 RSMo. See Cupples-Hesse Corp., v. Bannister, 322 SW2d 817 (Mo.).

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The assessor's jurisdiction to make valuations on property for a particular year terminates when he returns his assessment book to the county clerk pursuant to the statute. See *Wymore v. Markway*, 338 Mo. 46, 89 SW2d 9, 13.

After the assessor has completed his assessment for a particular year, the taxpayer has the right to appeal the amount of the assessment for that year (and that year only) to the County Board of Equalization which meets in July of each year. Sections 138.010 and 138.060 RSMo.

The County Board of Equalization has the power to determine such appeals from the valuation of property made by the assessor and to raise or lower the valuation of property which has not been returned at its true value. Sections 138.050 and 138.060 RSMo.

It is seen from the above that the assessor has no power to change the valuation on a tract of land set by the Board of Equalization for a particular year. However, although the assessor cannot "change" the valuation set by the Board of Equalization for a particular year, the assessor has the duty to assess the property in the county at its true valuation for the following year and every year thereafter. Section 137.115 RSMo. The assessor, in his valuation of the property is not legally bound to assess the property at its valuation for the previous year. The assessor is to value the property at a money value, which in his opinion is the true value of the property as of January 1. This valuation may be the same or higher or lower than the valuation set for the property for the previous year. See enclosed opinion to Honorable Arthur B. Cohn under date of February 28, 1957.

If the assessor should value a piece of property for a particular year at a value which is higher or lower than the valuation set by the Board of Equalization for such piece of property for the prior year, this is not a "change" in the valuation set by the Board of Equalization; this is a new valuation for that piece of property for the particular year that the assessment is being made. This new valuation on the piece of property may be made as early as the first day of January in the year following a valuation on such piece of property by the Board of Equalization. Section 137.115 RSMo.

Your second question concerns notice to the owner of a piece of property of a valuation on that property set by the Board of Equalization at the same valuation as set by the Board for the previous year, but which is set after an intervening "change" in valuation by the assessor in the spring

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prior to the Board's meeting.

As stated above, this valuation by the assessor in the spring is a new valuation and not a changed valuation. Hence, when the Board of Equalization in July sets the valuation for such piece of property at the same valuation it set on the property for the prior year, after the assessor made a new valuation of such property at a higher or lower value than set for the prior year, it is changing the valuation on that piece of property.

Therefore, if the valuation set by the Board of Equalization is higher than that set by the assessor that spring for that particular year, then the Board is required by Section 138.050 RSMo to give notice of such change to the person owning or controlling the piece of property in question. Section 138.050 RSMo does not require notice when the Board reduces the value of the property below that set by the assessor.

The answer to your first question as to the earliest date that the assessor may change the valuation of a piece of property set by the Board of Equalization is that he may not change the valuation that year but may make a new valuation of the property as of January 1, of the following year.

The answer to your second question regarding notice by the Board of Equalization to a person owning or controlling a piece of property assessed by the assessor in the spring at one valuation and changed by the Board to a different valuation in July, is that Section 138.050 RSMo requires notice of the change in valuation only when the valuation is increased and not when the valuation is reduced.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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