

TAXATION: The County Assessor receives payment on one list which contains both personal property and real estate of each person in the county.

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January 18, 1940

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Hon. Emory C. Medlin  
Prosecuting Attorney  
Barry County  
Cassville, Missouri



Dear Sir:

We are in receipt of your request for an opinion, dated January 16, 1940, which reads as follows:

"My County court and the County Clerk have requested an opinion from you in regard to the County Assessor, whether or not in assessing property, real estate and personal property, should be made on one assessment list. Or whether they should be on separate lists and the Assessor collect fees for two lists."

Section 9769 R. S. Missouri, 1929, provides that the Clerk of the county court shall deliver to the Assessor every two years the assessor's book of his last assessment of real estate, as furnished by the registrar of lands.

Section 9778 R. S. Missouri, 1929, provides that after the assessor has made an examination and comparison of the list of property delivered by individuals, and the list of lands furnished by the Secretary of State he shall make a complete list of the taxable

property to be called the assessor's book.

Section 9779 R. S. Missouri, 1929, provides that the real estate shall be assessed each year.

Barry County has a population of 22,803 according to the last decennial census, and the County Assessor of that county should be paid, for making up the personal and real estate list, in accordance with Section 9806, Laws of 1931, page 359, which partially reads as follows:

"The compensation of each assessor shall be thirty-five cents per list in counties having a population not exceeding forty thousand, \* \* \* ."

Section 9756, Laws of Missouri, 1937, page 570, partially reads as follows:

"The assessor or his deputy or deputies shall between the first days of June and January, and after being furnished with the necessary books and blanks by the county clerk at the expense of the county, proceed to take a list of the taxable personal property and real estate in his county, town or district, and assess the value thereof, in the manner following to-wit: He shall call at the office, place of doing business or residence of each person required by this chapter to list property, and shall require such persons to make a correct statement of all taxable property owned by such person, or under the care, charge or management of such person, except merchandise which may be required to pay a license tax, being in any county of this state in accordance with the provisions of this chapter, and

the person listing the property shall enter a true and correct statement of such property, in a printed or written blank prepared for that purpose; which statement after being filled out, shall be signed and sworn to, to the extent required by this chapter by the person listing the property and delivered to the assessor. Such lists shall contain; first, a list of all the real estate and its value, to be listed and assessed on the first of June, 1937, and every year thereafter, anything in this or any other section to the contrary notwithstanding; second, a list of all the live stock, showing the number of horses, mares, and geldings, and their value; the number of asses and jennets, and their value; and the number of mules and their value; the number of neat cattle, and their value; the number of sheep, and their value; the number of hogs and their value and all other live stock and its value; \* \* \* \* \* ."

Under the above partial section it will be noticed that the county clerk shall furnish the necessary books and blanks to the assessor, or his deputies, to take a list of all taxable personal property and real estate in his county. It also provides the manner of making assessment. First, it provides that he shall call at the office, place of doing business or residence of each person required by this chapter to list property. The only property that is required to be listed by the owner is personal property, and under the above section he shall list the personal property and the written blank presented for that purpose must be sworn to. According to Sections 9769, 9778, 9779, supra, the assessor makes the return of the real estate. In Section 9756 in setting out the procedure of the assessor to make the list, it is provided first that he make a list of all the real estate and its value to be assessed and listed on the first day of June of each year. The section further

sets out, second, a list of certain live stock. This list as to real estate, live stock and other personal property, set out in order, from live stock to all other property, which consists of eleven different kinds of property shall be placed upon one list to be returned to the county clerk. At the end of Section 9756, supra, is the following phrase:

"The word 'list' as used in Section 9806 of this Chapter shall include all the lists required under this section to be taken."

It will be noticed that under section 9806, supra, in counties having a population of not more than forty thousand, the assessor shall receive thirty-five cents per list. It can clearly be shown that section 9756, supra, by stating that the list set out in section 9806, supra, shall include all the lists required under section 9756, supra, that it was the intention of the legislature that the list under section 9806, supra, is the only list that the assessor shall receive pay for and that that list includes all of the information obtained in the eleven lists, as set out in section 9756.

In construing a section the principal rule of construction is to follow the intention and purpose of the legislature in enacting any statute. It was so held in *Cummins v. Kansas City Public Service Co.*, 66 S. W. (2d) 920, par. 7-10, where the court said:

"\* \* \* The primary rule of construction of statutes is to ascertain the lawmakers' intent, from the words used if possible; and to put upon the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote its object, and 'the manifest purpose of the statute, considered historically,' is

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properly given consideration. See Grier and Meyering Cases; 2 Lewis, Sutherland on Stat. Const. (2d Ed.) sec. 363; Endlich on Interpretation of Statutes, sec. 329; and Maxwell on Statutes (5th Ed.) 425."

Also, it was so held in the case of Wallace v. Woods, 102 S. W. (2d) 91, par. 9-11, where the court said:

"The primary rule of construction of statutes is to ascertain the lawmakers' intent, from the words used if possible; and to put upon the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote its object, and "the manifest purpose of the statute, considered historically," is properly given consideration. \* \* \* 2 Lewis, Sutherland on Stat. Const. (2d Ed.) sec. 363; Endlich on Interpretation of Statutes, sec. 329; and Maxwell on Statutes (5th Ed.) 425.' Cummins v. Kansas City Public Service Co., 334 Mo. 672, 66 S. W. (2d) 920, loc. cit. 925. \* \* "

CONCLUSION

In view of the above authorities, it is the opinion of this department that the county assessor of Barry County can only collect thirty-five cents per list on each list which should contain the real estate and personal property.

Respectfully submitted,

APPROVED:

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WJB:RW