

ASSESSORS:
TAXATION
FEES:

Assessor should list all property, real
or personal on the list of each taxpayer.

February 11, 1942



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Mr. Frank Owen
Assessor of Clark Co.
Kahoka, Missouri

Dear Mr. Owen:

This is in reply to your letter of recent date,
wherein you request an opinion from this department on
the following statement of facts:

"There is a difference in opinion of Ex-
Assessors and of the present Assessor. I
thought it might be well enough to have
the opinion, of what a non-resident list
means.

"The post official made a list like if
John Jones lived in Lincoln Township and
had real estate in some other Township
in the county with no personal list in
that Township, would he be listed on
'Real Estate'. Would all the real es-
tate he might own in the county come under
one list."

Since this question involves a question of compensa-
tion to the assessor, we must look to the statute providing
such compensation for the purpose of determining same.

In the case of Smith v. Pettis County, 136 S. W. (2d)
282, 285, the court said:

"The rule is established that the right
of a public official to compensation
must be founded on a statute. It is equally
established that such a statute is strict-
ly construed against the officer.* * *"

And in Lamar Township v. City of Lamar, 261 Mo. ,
171, 189, the court in speaking of the authority of officers
said:

"Officers are creatures of the law, whose duties are usually fully provided for by statute. In a way they are agents, but they are never general agents, in the sense that they are hampered by neither custom nor law and in the sense that they are absolutely free to follow their own volition. Persons dealing with them do so always with full knowledge of the limitations of their agency and of the laws which, prescribing their duties, hedge them about. They are trustees as to the public money which comes to their hands. The rules which govern this trust are the law pursuant to which the money is paid to them and the law by which they in turn pay it out. Manifestly, none of the reasons which operate to render recovery of money voluntarily paid under a mistake of law by a private person, applies to an officer. The law which fixes his duties is his power of attorney; if he neglect to follow it, his cestui que trust ought not to suffer. In fact, public policy requires that all officers be required to perform their duties within the strict limits of their legal authority."

Section 10950 R.S. Mo., 1939, which provides for the assessment and fees, reads in part 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; * * * * *
 * * * * * The word 'list' as used in Section 10996 of this Chapter shall include all the lists required under this section to be taken."

It will be noted that this section requires the taxpayer to return on his list all the real estate belonging to such taxpayer. This same list must contain all other taxable property of the taxpayer.

Section 10996 R. S. Missouri 1939, provides in part as follows:

"The compensation of each assessor shall be thirty-five cents per list in counties having a population not exceeding forty thousand, thirty cents per list in counties having a population of more than forty thousand, and not exceeding seventy thousand, and twenty-five cents per list in counties having a population in excess of seventy thousand inhabitants, and shall be allowed a fee of three cents per entry for making real estate and personal assessment books, all the real estate and personal property assessed to one person to be counted as one name, one-half of which shall be paid out of the county treasury and the other half out of the state treasury. Provided,

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that nothing contained in this section shall be so construed as to allow any pay per name for the name set opposite each tract of land assessed in the numerical list: * * *."

We think these statutes very plainly state that all of the property of the taxpayer in the county should be included and listed on one assessment list.

CONCLUSION

From the foregoing, it is the opinion of this department that all of the property in the county both real and personal, belonging to a taxpayer, should be included in the one assessment list which he is required to return to the assessor.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

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