

TAXATION AND REVENUE: Necessity of filing returns for Missouri intangible personal property tax by joint owners.

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Mr. H. E. Morris, Director
Department of Revenue
State of Missouri
Jefferson City, Missouri

Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office, and reading as follows:

"It is requested that you furnish this department with a written opinion advising whether or not two individuals having a joint savings account, or any other item covered by the intangible tax law as set forth in House Bill #868, would be required, or permitted, to file a joint return on such joint earnings."

You have referred to the intangible personal property as being "jointly" owned. Such being the case, it is pertinent to determine the precise legal meaning of this term.

We find the word "joint" defined in Black's Law Dictionary, 2nd Ed., as follows:

"United; combined; undivided; done by or against two or more unitedly; shared by or between two or more." (emphasis ours.)

Also, the following definitions of "joint," "joint ownership" and "jointly" appear in Vol. 25, Words and Phrases, Perm. ed., pages 43 and 93, and Pocket Part, page 33:

"The word 'joint' means united or coupled together in interest or liability, opposed to several. *Mavromates v. Hutchinson*, 183 N.E. 291, 293, 43 Ohio App. 365."

"The words 'joint' and 'general' import unity, as distinguished from the word 'separate,' which implies division and distribution. Merrill v. Pepperdine, 36 N.W. 921, 922, 9 Ind. App. 413."

"Joint means, according to Bouvier, a common property interest enjoyed or a common liability incurred by two or more persons. As applied to real estate, it involves the idea of survivorship. State v. Maick, 89 N.W. 183, 186, 115 Wis. 239."

"To constitute 'joint ownership' the shares must generally extend to the whole estate and be such as that neither of the owners would have an interest in the proceeds set apart to the other joint owner. Fullenwider v. Johnson, 139 S.W. 1096, 1097, 145 Ky. 19."

"The word 'jointly' means in a joint manner; together, unitedly, not separately. It has a general meaning of plurality. More than one, both, all, and the like. It means in a joint manner, in concert; in conjunction; not separately, together, united. White v. Powell, 20 So. 2d 467, 469, 246 Ala. 356."

From the foregoing definitions, it is clear that joint ownership embodies the idea, not alone of plurality of owners, but also that the ownership of the several owners extends to the entire subject-matter. The interests are undivided and are not separable.

Such being the case, we direct your attention to subsection (A) of Section 1 of H.C.S.H.B. No. 368 of the 63rd General Assembly, wherein the following definition of the term "person" is found:

"The term person includes any individual, firm, co-partnership, joint adventure, association, corporation, company, estate, trust, business trust, syndicate, executor, administrator, receiver or trustee appointed by the state or federal court, or any other group or combination acting as a unit, and the plural as well as the singular number."
(Emphasis ours.)

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Your attention is further directed to a portion of Section 2 of the same Act, relating to the liability for filing returns for the calendar year 1946:

" * * * The person who on July 1, 1946, owned the legal title to or equitable title or beneficial interest in intangible personal property subject to this property tax thereon, shall be liable for said tax."

With respect to subsequent calendar years, the following provisions are found in Section 5 of the same Act:

"The tax for the year 1947 and each succeeding year shall be apportioned among those persons who during the preceding calendar year held or acquired the legal title to or equitable title or beneficial interest in intangible personal property subject to the property tax provided by Section 4 of this Act, according to the part of the entire yield of such property which they respectively received during the preceding calendar year, and each such person shall be liable for his resultant portion of said tax." (Emphasis ours.)

Reading into the portions of the Act quoted supra, the meaning to be accorded the term "person," as defined in the Act, it becomes apparent that in the event of joint ownership of intangible personal property subject to the tax provided in H.C.S. H. B. No. 868 of the 63rd General Assembly, the return of such property should be made by the joint owners.

CONCLUSION

In the premises, we are of the opinion that joint owners of intangible personal property subject to the tax imposed under the provisions of H.C.S.H.B. No. 868 of the 63rd General Assembly should make return of such intangible personal property for purposes of taxation.

Respectfully submitted,

APPROVED:

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