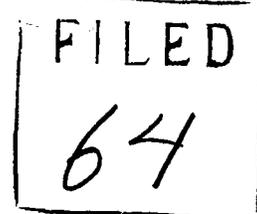


TAXATION AND REVENUE:

Duty of the Director of Revenue with regard to distribution of moneys collected under House Bills Nos. 868, 869, 888 and 948 of the 63rd General Assembly.

August 13, 1947



Mr. M. E. Morris
Director of Revenue
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion from this office, reading as follows:

"Please advise in a written opinion whether or not it is possible for the Department of Revenue to distribute the money collected under House Bills 868, 869, 888, and 948 as passed by the 63rd General Assembly according to the certifications received from the various county clerks."

The various statutory enactments referred to in your letter of inquiry now appear as Sections 11456.1 to 11456.15, Mo. R.S.A., Sections 10963.1 to 10963.7, Mo. R.S.A., Sections 11456.101 to 11456.112, Mo. R.S.A., and Sections 11456.201 to 11456.213, Mo. R.S.A.

For reasons which will appear subsequently, we will discuss the provisions of Sections 10963.1 to 10963.7, Mo. R.S.A., separately.

Each of the other acts require the collection of the various taxes described therein and their distribution to the various political subdivisions of their origin by the Director of Revenue. Similar provisions are incorporated in the various acts with respect to such distribution.

Section 11456.12, Mo. R. S.A., reads, in part, as follows:

" * * * Such returns shall include a statement of the exact amount due each political subdivision as determined by applying the local rates of levy. * * * (Emphasis ours.)

Section 11456.110, Mo. R.S.A., reads, in part, as follows:

" * * * Such returns shall include a statement of the exact amount due each political subdivision as determined by applying the local rates of levy. * * *" (Emphasis ours.)

Section 11456.211, Mo. R.S.A., reads, in part, as follows:

" * * * Such returns shall include a statement of the exact amount due each political subdivision as determined by applying the local rates of levy. * * *" (Emphasis ours.)

From the foregoing, it becomes apparent that it is the duty of the Director of Revenue to determine the respective local rates of levy of the various political subdivisions entitled to share in the distribution of such tax moneys. The manner of obtaining such information has been left to the Director of Revenue by the General Assembly, as no provision has been made in any of the taxation statutes requiring the person, or persons, having control of the records of the various political subdivisions relating to their respective local rates of levy to certify such rates to the Director of Revenue. However, without going into detail and enumerating the many statutes relative thereto, we do note that the county clerk, as custodian of the records of the county court, does have a record of the levies made by that body; that other statutes require the various tax levying boards and bodies to certify their local rates of levy to the county clerk; and that in most instances the county clerk does have, through the official records kept in that office, information relative to the various local rates of levy. It becomes a question of the willingness of the Director of Revenue to accept the certifications of the various county clerks, which is a matter upon which we do not express any opinion.

We have deferred consideration of House Bill No. 869 of the 63rd General Assembly, found as Sections 10963.1 to 10963.7, Mo. R. S.A. This for the reason that at no place in these various sections does a requirement appear similar to those set out, supra, requiring the distribution of the tax moneys collected thereunder to the various political subdivisions.

However, we do note that Section 10963.7, Mo. R. S.A., does classify the accounts of savings and loan associations and building and loan associations as intangible property. We further note that Sections 10963.2 and 10963.3 place the tax upon such accounts upon the owners thereof. The only difference in the treatment of such accounts and the method provided for in the

general intangible personal property tax law is that savings and loan and building and loan associations are required to compute, withhold and pay such tax directly.

From the foregoing, we reach the conclusion that the tax provided for in the sections mentioned is one falling within Class 3 as defined in the Constitution of 1945, and therefore the moneys collected should be treated in the same manner as those collected under other intangible personal property tax laws.

Section 4 (c) of Article X of the Constitution of 1945 reads as follows:

"All taxes on property in Class 3 and its subclasses, and the tax under any other form of taxation substituted by the general assembly for the tax on bank shares, shall be assessed, levied and collected by the state and returned as provided by law, less two per cent for collection, to the counties and other political subdivisions of their origin, in proportion to the respective local rates of levy."

This, we believe, necessarily requires the distribution of such tax money to the various political subdivisions of their origin, in proportion to the respective local rates of levy, even though the General Assembly has not specifically provided a method for doing so. We believe, however, that the Director of Revenue should follow the procedure outlined with respect to the distribution of other intangible personal property taxes collected, particularly since in each of those other acts identical requirements with respect to distribution have been incorporated.

CONCLUSION

In the premises, we are of the opinion that intangible personal property taxes collected under the provisions of House Bills Nos. 868, 869, 888 and 948 of the 63rd General Assembly are to be distributed by the Director of Revenue to the various political subdivisions of their origin, in proportion to their respective local rates of levy.

