

**INHERITANCE TAXES:
APPRAISERS:**

No Missouri statutes require inheritance tax appraisers to accept inventory-appraisal as sole proof of value of estate property for tax purposes. He may subpoena witnesses, require production of books, records, documents, papers and all other available material evidence by which to ascertain value of su property and base appraisement thereon.

August 23, 1951

Mr. C. L. Gillilan
Assistant Supervisor
In Charge of Inheritance Tax
Department of Revenue
Jefferson City, Missouri



Dear Sir:

Receipt of your request for a legal opinion of this department is herewith acknowledged and said request reads as follows:

"At the top of Chapter 145, Revised Statutes of Missouri, 1949, under the heading 'CROSS REFERENCES' there appears this statement 'Administrator's appraisement of estates to be accepted as basis for assessment of inheritance tax, RSMo 462.020.'

"Several Probate Judges and Inheritance Tax appraisers have raised the question as to whether or not Section 462.020 requires them to accept appraisals shown in the Probate Court Inventory as the basis for assessment of Inheritance Tax.

"This Department has taken the position that it is not mandatory for the Inheritance Tax appraiser to accept the values set out in the original inventory; that the appraiser's duties, as set out in Section 145.160, requires an independent appraisal and authorizes the appraiser to conduct hearings for the purpose

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of determining values; that the appraiser's oath (Sub-division 4, Section 145.150) also requires him to make an independent appraisal; also it appears the wording of Section 462.020 could be construed as making an exception of Inheritance Tax appraisals ordered by the Probate Court.

"I would be pleased to have an official opinion from your Department relative to this matter."

Reference is made in your letter to Section 462.020, RSMo 1949. This section provides that the executor or administrator shall make an inventory and appraisement of all the real and personal estate of the deceased, describing the quantity, situation, and title of each parcel of real estate, and the fair cash value of same. Likewise each item of personal property and its market value must be given, except those evidences of debt having a fixed value. This section further provides that the inventory appraisal may, under certain circumstances be used as the basis for the assessment of inheritance taxes; said section reads in part as follows:

"Such appraisement verified as provided in this chapter, shall be accepted unless another appraisement be ordered by the court, as proof of the value of the property appraised for the purpose of assessing state inheritance tax * * *."

It appears that Section 462.020, supra, and particularly that portion of same quoted above has given rise to your inquiry which we understand to be whether it is the duty of the appraiser to accept the appraisal of the estate property shown in the inventory as the sole basis for his appraisal of such property for inheritance tax purposes, and in view of this interpretation of your inquiry we shall direct our discussion to this phase of the subject matter.

Section 145.150, RSMo 1949, in effect provides that the probate court before whom the administration proceedings are pending has jurisdiction to determine the amount of state inheritance taxes due, the persons or institutions liable for the payment of same, and to determine any question which may arise in connection therewith. The appointment of an inheritance tax appraiser is also authorized under certain circumstances mentioned in paragraph 3, of said section, to be noted hereafter.

Section 145.150, RSMo 1949, reads in part as follows:

"2. Such court or the judge thereof in vacation shall immediately upon the filing of the inventory and appraisement of the estate of a decedent, examine the same, and if it is apparent, in the opinion of the said court or judge, that such estate is not subject to the tax provided for in this law, such finding and opinion shall be entered of record in said court and thereupon the provisions of section 145.210 shall become inoperative as to the holders of funds or other property thereof, and there shall be no further proceedings relating to such tax, unless upon the application of interested parties the existence of other property or an erroneous appraisement be shown.

"3. If it appear that said estate may be subject to such tax, it shall be the duty of the court to set a day for the hearing and determining the amount of said tax and to cause notice thereof to be given in the same time and manner and to the same parties as is herein provided for appraisers, or the court, before determining such matters, may of its own motion, or on the application of any interested person, including the director of revenue, the prosecuting attorney, or attorney general, appoint some qualified tax-paying citizen of the county, who is not executor, administrator or beneficially interested in said estate or the attorney for any of such parties, as appraiser to appraise and fix the clear market value of any property, estate or interest therein, or income therefrom which is subject to the payment of a tax under the provisions of this chapter.

"4. Every such appraiser shall make and subscribe, and file with the court appointing him, an oath that he will faithfully and impartially discharge his duties as such appraiser and that he will appraise all the property, estate, interest therein or income therefrom involved in the proceeding in which he is appointed at its clear market

value and shall forthwith fix a time and place for hearing the evidence and shall file notice thereof with the court appointing him not less than ten days prior to the date so fixed and shall also give notice by mail to all interested persons whose address he may have, always including the director of revenue and the prosecuting attorney of the county."

Under the provisions of this section two methods are provided by which an estate may be appraised for inheritance tax purposes: 1. by the court, and 2. by an appraiser appointed by the court.

1. In those instances when the court makes the appraisal, it is the duty of the court to set a day for a hearing and determination of the amount of taxes due (if any) from the estate, first having given due notice of such hearing to all interested parties. On the day set for the hearing, if, after hearing the evidence, it appears to the court that taxes are due, it then becomes his duty to appraise the property and assess the amount of taxes found to be due. In such instance no appraiser is appointed, and in performing this duty the court must accept the appraisal of the estate property shown in the inventory as proof of the value of such property for the assessment of the tax.

2. In the event the court does not wish to make the appraisal, he may, either upon his own motion, or upon the application of any interested person, including the director of revenue, the prosecuting attorney or attorney general, appoint some qualified tax-paying citizen of the county to make the appraisal.

Paragraphs 3 and 4 of Section 145.150, supra, authorizes the court to appoint the appraiser, and paragraph 4 of said section 145.150, and section 145.160, provide the duties required of such appraiser.

Section 145.160, RSMo 1949, reads as follows:

"1. The appraiser shall appraise all property, estate, assets, interest or income at its clear market value and he is hereby authorized to issue subpoenas and compel the attendance before him of witnesses and the production of books, records, documents, papers and all other material evidence, to administer oaths and to take the testimony of all witnesses under oath.

"2. He shall make report of his appraisement to the court in writing and shall return the testimony of the witnesses and all other evidence and such other facts in relation thereto as the court may by its order require, and such report shall be made within twenty days after the appointment of such appraiser, unless the court, for good and sufficient cause, by order gives such appraiser further time in which to report; provided, when the estate consists of personal property only, the prosecuting attorney may, with the consent of the director of revenue agree with the parties liable to pay any tax upon the amount of the same, and the court, if it approves such agreement, shall enter judgment accordingly and no appraiser shall be appointed."

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It is noted that this section does not specifically mention the inventory, nor does it provide, either expressly or by implication that it shall be the duty of the appraiser to accept the appraised value of the estate property shown in the inventory or base his appraisal upon the inventory-value or that shown in any other single document. As we read this section the appraiser is not limited to any single source from which to obtain information as to the value of such property, but that he is not only authorized, but it is his duty to obtain sufficient information from every available source to enable him to fairly and impartially appraise said property. We base our contention in this connection upon that part of the above quoted statute which provides that the appraiser may subpoena witnesses, require the production of books, records, papers, and documents, "and all other material evidence" of every kind, before him, which may be necessary, or helpful to him in the making of the appraisement.

While the inventory may correctly show the clear market value of the estate property on the date of the death of the decedent and if such values are thus correctly shown, the inventory-appraisal would be a correct guide for the inheritance tax appraiser to follow in making his appraisal, along with other evidence as to the value of such property, but since no Missouri statutes provide that he is required to base his appraisal only upon the values shown in the inventory, our answer to your inquiry is in the negative.

CONCLUSION

It is the opinion of this department that in making his appraisal of the property of a deceased person for inheritance tax purposes, an appraiser is not required under the provisions of any

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Missouri statutes to accept the appraisal of estate property found in the inventory as sole proof of the value of such property, and to base his own appraisal of such property thereon. He is not limited to this single source of information as to such values, but is authorized under the provisions of the statutes noted above to require the attendance of witnesses before him and the production of any books, records, documents, or papers, and all other material evidence available which may be necessary or helpful to him in making his appraisement of all estate property at its clear market value.

Respectfully submitted,

PAUL N. CHITWOOD
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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