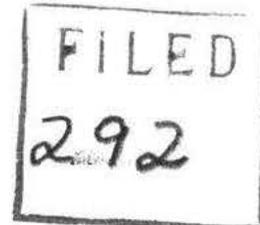


STATE TAX COMMISSION:  
TAXATION:  
COUNTIES:  
SCHOOL DISTRICTS:  
ASSESSMENTS:  
APPEALS TO STATE TAX COMMISSION:  
COUNTY BOARD OF EQUALIZATION:

Neither a county, an officer thereof nor a school district has a right to appeal to the State Tax Commission from a decision of a county board of equalization, determining the assessed valuation of an individual property.

Opinion No. 292

September 16, 1964



State Tax Commission of Missouri  
Jefferson Building  
Jefferson City, Missouri

ATTENTION: Honorable John A. Williams  
Chairman

Gentlemen:

You have requested the opinion of this office as follows:

"This Commission requests an official opinion from your department on whether or not St. Louis County, the Assessor of St. Louis County, the Director of Revenue of St. Louis County or the Berkley School District of St. Louis County may collectively or separately, lawfully appeal from a final decision of the St. Louis County Board of Equalization to this agency."

In our opinion no such appeal is authorized.

The State Tax Commission is created by statute, pursuant to the direction of Article X, Section 14, of the Constitution, with authority, inter alia, to equalize assessments and "under such rules as may be prescribed by law, to hear appeals from local boards in individual cases and, upon such appeal, to correct any assessment which is shown to be unlawful, unfair, arbitrary or capricious".

Implementing the foregoing constitutional provision is Section 138.430, RSMo, paragraph 2 of which provides that: "Every owner of real property . . . shall have the right of appeal from the local boards of equalization under rules prescribed by the state tax commission". This section further prescribes that the "commission shall investigate all such

State Tax Commission of Missouri

appeals and shall correct any assessment which is shown to be unlawful, unfair, improper, arbitrary or capricious".

The foregoing statute grants the right of appeal to the taxpayer, and to the taxpayer only. There is no statute which authorizes a political subdivision to appeal to the State Tax Commission an ad valorem assessment of an individual property. The statutory limitation to taxpayers of the right of appeal to the Commission is in line with the policy of this state at earlier stages of the assessment procedure. Section 137.275, RSMo, provides:

"Every person who thinks himself aggrieved by the assessment of his property may appeal to the county board of equalization, in person, by attorney or agent, or in writing."

Thus, only the taxpayer is given the right to complain of the action of the assessor or the county board of equalization with respect to the amount of his individual assessment. It may well be that the Legislature believed that the assessor in the first instance, and the county board of equalization, on appeal by the taxpayer, would sufficiently protect the interests of the county at the county level.

The State Tax Commission is a state body which hears appeals in a quasi-judicial capacity. Its jurisdiction is prescribed by law and, hence, may be invoked only in the manner and to the extent provided by law. As noted, the law authorizes only an aggrieved taxpayer to appeal to the Commission from a decision of a county board of equalization on the assessment of his property.

We note in this connection that Section 138.470, RSMo, provides in part that "all persons affected, or liable to be affected by review of said assessments thus provided for, may appear and be heard at said hearing" of the appeal. This office has heretofore ruled, in an opinion to the Honorable Raymond R. Roberts, Prosecuting Attorney of St. Francois County, under date of December 15, 1959, copy of which is enclosed herewith, that under the foregoing statutory provision a school district is a "person" entitled to appear and be heard on a taxpayer's appeal filed under Section 138.430.

Hence, once jurisdiction of the appeal has attached, it is not unusual for school districts and various political subdivisions to intervene and become parties to the proceeding

## State Tax Commission of Missouri

before the State Tax Commission. Parenthetically, it is to be noted that in the case of In re St. Joseph Lead Company, Mo. Sup., 352 SW2d 656, the Supreme Court expressly declined to rule whether a school district had the right to intervene in such a proceeding, holding that in that case, at least, the county itself adequately represented whatever interest or right the school district might have had.

In the cited case, the Supreme Court held that the county involved in a taxpayer's ad valorem tax appeal to the State Tax Commission is an "interested party" in the "contested case" before the Commission and therefore was an "aggrieved" person entitled to a judicial review of the decision of the Commission. That case simply involved "a matter of statutory construction", namely, the statutes applicable to the right of judicial review of contested cases decided by an administrative agency. So, too, the present question involves only a matter of statutory construction of other statutes. Hence, the mere fact that the county might be aggrieved by a decision of the State Tax Commission on a taxpayer's appeal thereto, and, if so, would have the right to a judicial review of such decision has no bearing whatever upon the question of whether the county, or any officer or political subdivision thereof, has the right to compel the Commission to assume jurisdiction of the case for the purpose of rendering a decision which is subject to judicial review.

The statutes providing for judicial review are wholly inapplicable to the right to obtain an administrative review before the Tax Commission. And in any event we discern no legislative intent in any statute to authorize an appeal to the Commission by any "person" other than the taxpayer and that only with respect to the assessment of individual property.

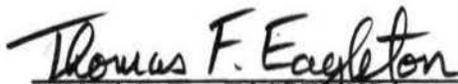
### CONCLUSION

It is the opinion of this office that only a taxpayer may invoke the appellate jurisdiction of the State Tax Commission on a complaint respecting the assessment of his property, and that neither the county, any official thereof nor a school district therein may appeal to the State Tax Commission from a final decision of the county board of equalization determining the assessed valuation of an individual property.

State Tax Commission of Missouri

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Joseph Nessenfeld.

Very truly yours,

  
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THOMAS F. EAGLETON  
Attorney General

Enclosure