

ASSESSORS: Entitled to regular fees for additional assessments on Income Tax Returns.

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September 13, 1933.

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Hon. W.A. Bassman,
Assessor of Cole County,
Jefferson City, Missouri.

Dear Sir:

This department acknowledges receipt of your letter of August 12, 1933, which reads as follows:

"I will appreciate it very much if you will give me your opinion as to whether or not the Assessors of Missouri are entitled to receive the same fee for additional assessments on income tax returns as they are on the original returns."

In determining whether or not you are entitled to any fees for additional assessment on income taxes, we must be guided solely by the statutes of our State. We assume that you have made the additional assessments under Sec. 10128, R.S. Mo. 1929, the pertinent part of which is as follows:

"****Whenever the assessor shall make an assessment on income for a calendar year against any taxpayer who has failed to file a return or an additional assessment against any taxpayer whose return is insufficient, and such assessment or additional assessment shall be made after the 15th day of April following such calendar year, or whenever the assessor shall make an assessment on account of income for any fiscal year against any taxpayer who has failed to file a return or an additional assessment against a taxpayer whose return is insufficient, and such assessment or additional assessment shall be made after the 15th of the month, following the filing of such return

which the return should have been filed if return was not filed, then in every such case the assessor shall send to the taxpayer, by registered mail, a copy of such assessment or additional assessment, but the failure of the taxpayer to receive such copy shall not in any way invalidate or affect such assessment or additional assessment."

In 1931 the Legislature amended the fees of assessors as set out on p. 359, Laws of Mo. 1931, said section being 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, 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. *****"

Section 9610, R.S. Mo. 1929 is as follows:

"Whenever, for any cause except when exemptions have been granted by law, there has been a failure to assess the property in any county for any year or years, the assessor of said county for the time being shall assess the property for the year or years in which said failure shall have occurred. Such assessment shall be made at the same time as is now provided by law for the assessment of property, the assessment for each year to be in a separate book. In making the said assessment, and in

all subsequent proceedings thereon, the assessor, county court, clerk of the county court and collector shall be governed by the same law as is now in force for the assessment and collection of taxes, and shall receive the same compensation as is now provided by law for similar duties,"

gives to the Assessor the "same compensation as is now provided by law for similar duties".

Under the caption of "Taxation of Incomes", Sec. 10133, R.S. Mo. 1929, the compensation of assessors is fixed for assessing incomes, said section being as follows:

"Assessors and collectors shall be compensated in like manner and in like amounts as for the assessments of other taxes: Provided, that in counties in which the assessors and collectors are paid a fixed salary, that in addition to the salary paid, they shall be permitted to charge for work performed in the assessing and collecting of the income tax, as provided by this article, the same fees as are charged by assessors and collectors whose salary is not fixed by law, and which fees so charged by said assessors and collectors for services rendered in assessing and collecting income tax shall be paid by the state."

It is the opinion of this department that in as much as you are entitled to compensation for property which is omitted for any year or years, as stated under Sees. 9810 and 10133, R.S. Mo. 1929 stating that you are to be compensated "as for the assessment of other taxes", you should be entitled to your regular fees for additional assessments.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

ROY MCKITTRICK,
Attorney General