

ASSESSORS:)
TAXATION:) (Sections 10025 and 9760 discussed. Assessment of local
property other than distributable. Time of assessor. ✓

May 23, 1933 ✓

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Mr. Jesse A. Mitchell, Commissioner
State Tax Commission
Jefferson City, Missouri

Dear Sir:

This is to acknowledge your letter of May 23rd, which is as follows:

"At our Assessors meeting yesterday a controversy arose as to the assessment of local assessed property of Public Utilities. Section 10025 sets forth how such property shall be assessed. Section 9760 of the General Revenue ~~act~~ gives the Assessor authority to make list where none is given. The question at issue is whether or not Section 9760 is operative as to assessment of property owned by Public Utilities and is the Assessor clothed with that authority relative to local assessed property of Public Utilities the same as other property?

Public Utilities make return out of distributable property to the State Tax Commission on the reverse side of which they show the amount of property they have returned to each County for local assessment. We desire to know if the local taxing authorities must rely upon the statement so made by the Company or should the Assessor assess the same as in cases of private property? The law provides that the local assessed property of Public Utilities shall be entered on the Railroadbook, which is a prerequisite to the collection of the tax. Is it the duty of the County Clerk or the Assessor to make the entry on the railroad tax book?

Thanking you for the courtesy of an early reply."

Section 10066 R. S. No. 1929, provides in part the following:

" * * and all property, real and personal, including the franchises owned by telegraph, telephone, electric power and light companies, electric transmission lines, oil pipe lines, and express companies, shall be subject to taxation for state, county, municipal and other local purposes to the same extent as the property of private persons. And taxes levied thereon shall be levied and collected in the manner as is now or may hereafter be provided by law for the taxation of railroad property in this state, and county courts, and the county and state boards of equalization are hereby required to perform the same duties and are given the same powers in assessing, equalizing and adjusting the taxes on the property set forth in this section as the said courts and boards of equalization have or may hereafter be empowered with in assessing, equalizing, and adjusting the taxes on railroad property; * * "

Section 10012 R. S. No. 1929, provides that a statement of the distributable property of railroads shall be furnished to the State Auditor on or before the first day of January of each year.

Section 10035 R. S. No. 1929, reads as follows:

"All property, real, personal or mixed, including lands, machine and workshops, roundhouses, warehouses and other buildings, goods, chattels and office furniture of whatever kind, owned or controlled by any railroad company or corporation in this state not hereinbefore specified, shall be assessed by the proper assessors in the several counties, cities, incorporated towns and villages wherein such property is located, under the general revenue laws of the state and the municipal laws regulating the assessments of other local property in such counties, cities, incorporated towns and villages, respectively, but the taxes on the property so assessed shall be levied and collected according to the provisions of this article."

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Section 9760 R. S. No. 1929, reads as follows:

"Whenever there shall be any taxable property in any county, and from any cause no list thereof shall be given to the assessor in proper time and manner, the assessor shall himself make out the list, on his own view, or on the best information he can obtain; and for that purpose he shall have lawful right to enter into any lands and make any examination and search which may be necessary, and may examine any person upon oath touching the same."

You desire to know if Section 9760 contemplates the local assessor to assess property mentioned in Section 10025.

It will be seen that Section 10012 pertains to the filing of a statement by the railroad companies to the State Auditor regarding their distributable property, and Section 10066 provides that public utilities (so termed by you for brevity sake) shall also comply with the provisions relative to distributable property the same as railroads. Section 10025 provides that other property (not distributable) of these public utilities should be assessed by local assessors, and Section 9760 provides the manner in which the assessors may obtain information for the assessment of such property.

It is our opinion that Section 9760 is operative as to the assessment of property (other than distributable) owned by public utilities, and the assessor is clothed with authority to so assess property mentioned in Section 10025 the same as he assesses other local property.

It must follow then that the local taxing authorities do not have to rely upon the statement made by the company on the reverse side of the statement which is submitted to the State Tax Commission, provided for by Section 10012, and that the

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assessor may assess property mentioned in Section 10025 as he does in cases of private property.

It is our further opinion that it is the duty of the county clerk to make the entry of assessed property on the railroad tax book. Sections 10030 and 10031 R. S. No. 1929; State ex rel. Kersey, v. Western Union Tel. Co. 263 S. W. 419.

You were in great haste for this opinion and hardly gave us time enough on same, so if we have not made our position clear or covered any part as fully as you wished, please let us know and we shall render a more comprehensive opinion.

Yours very truly,

JAMES L. HORNOSTEL,
Assistant Attorney General.

APPROVED _____
Attorney General.

JLH:MM