

TAXATION - Last assessment defined, - Formula for determining
1934 rate for county purposes.

3rd
February 28, 1934.



Hon. J. R. Cary
County Clerk
Carroll County
Carrollton, Mo.

Dear Sir:

We have your request of February 19th, 1934,
for an opinion upon the following facts:

• "What assessment shall be used in determining the county rate and increase in rate under Section 9873? Apparently the Supreme Court in 300 S. W. 274 attempted to base the computation of the county rate on the "last completed assessment" which for 1934 would be the 1933 assessment.

When the 1934 rate is fixed by the County Court in May, only the real and personal property assessments have been fixed, while the utility and merchants and manufacturers assessments are not fixed until in September or October.

Some contend that the real and personal property assessments for 1934 and the utility and merchants and manufacturers for 1933 shall be used in determining the rate. Some even contend that the 1934 assessment shall be estimated and rate computed on it.

It seems to me that the "last completed assessment" means the complete assessment

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of property for one year and of course in May of 1934 the only complete assessment is that of 1933.

What assessment shall we use in increasing our rate under the ten per cent limit over the previous year's levy as authorized by Section 9873?

For the purpose of this opinion, we are dividing it into two divisions.

1. The meaning of "last assessment".
2. The formula for determining the 1934 rate for county purposes.

I.

THE MEANING OF "LAST ASSESSMENT".

Section 11 of Article 10 of the Missouri Constitution, in part, provides:

"The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes."

Since Section 9873, R. S. Mo. 1929 is copied from the above constitutional provision, limiting the amount that any County Court may levy annually for county purposes, the valuation referred to in Section 9873 means the last full assessment. The Supreme Court of Missouri en banc (1927), in State ex rel. v. St. Louis S. F. Ry. Co. 300 S. W. 274, 1. c. 276, said:

"There is nothing in article 10, Sec.11, of the Constitution, which requires the assessment, made in the year the levy is made, and in the year in which the taxes are payable, to be taken as and for the 'last assessment.' The term 'last assessment' means the last completed assessment. The Wabash Case so holds. See also, State ex. rel. Carthage v. Hackmann, 287 Mo. 184, loc. cit. 188, 229 S. W. 1078; Steinbrenner v. St. Joseph, 285 Mo. 318, loc. cit. 325, 226 S. W. 890; State ex rel. Dexter v. Gordon, 251 Mo. 303, loc. cit. 309, 158 S.W. 683. It must therefore be regarded as finally settled in this state that the words 'last assessment,' as used in article 10, Sec.11, and in article 10, Sec.12, of the Constitution, mean the last completed assessment."

The term 'last assessment' is merely an arbitrary measuring rod which is not necessarily accurate at the time it is applied. In fixing the limit of indebtedness under article 10, Sec.12, the 'assessment next before the last assessment' is used as the measuring rod, notwithstanding the actual assessed value in the taxing district may have markedly increased or decreased between the date of such 'assessment next before the last assessment' and the time when the particular bonds are voted. * * * * *

"Thus the county court is at least authorized and empowered to make the levy for county purposes at its May term and, in fixing the rate of such levy, the court is governed by the last assessment, which means the last assessment completed at the time such levy is made. It can mean nothing else. If the assessment for the current year is completed at the time the levy is made, well and good. That assessment can be used as the measuring rod to ascertain the rate which can legally be levied. If the assessment for the current year is not complete at that time, then the completed assessment for the previous year must be used."

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It is, therefore, the opinion of this office that the term "last assessment" means the last full assessment, including all forms of property subject to taxation, and for the purpose of the 1934 levy is the 1933 assessment made as of June 1st, 1932 and thereafter.

II.

THE FORMULA FOR DETERMINING THE 1934 RATE FOR
COUNTY PURPOSES.

Section 9873 R. S. Mo. 1929, in part, provides:

"the county court shall not have power to order a rate of tax levy on real or personal property for the year 1921 which shall produce more than ten per cent in excess of the amount produced mathematically, by the rate of levy ordered in 1920, and in no subsequent year may any county court or any officer or officers acting therefor, order a rate of tax levy that will produce mathematically more than ten per cent in excess of the taxes levied for the previous year."

It must be borne in mind that any tax levy on real and personal property is subject to the limitations, based upon "last assessments", as set out in Article 10, Section 11, of the Missouri Constitution.

The fair meaning of Section 9873, above set out, is that the taxes levied on real and personal property in a county

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for 1933, limits the right of the county court to collect on real and personal property taxes for 1934 from such property totaling more than ten per cent in excess of the 1933 anticipated revenue.

The maximum rate of levy for 1934 is determined by multiplying the 1934 rate times the last full assessment, divided by the unit of value for assessment purposes, the result of which will equal the previous year's anticipated revenue plus ten per cent. Stated in other terms:

$$\text{Rate} \times \frac{\text{Last full assessment}}{100} = \text{Previous year's anticipated revenue, plus ten per cent.}$$

Assuming the following facts for the purpose of the formula:

R = Rate of levy.

\$4,000,000 = last full year assessment (1933).

\$100.00 = Unit of value for tax purposes.

\$16,000 = Previous year's anticipated revenue.

The formula would then read:

$$R \times \frac{4,000,000}{100} = (16,000 + 10\%) = \$17,600.$$

R = 44¢ rate.

It is, therefore, the opinion of this office that the 1934 maximum rate of levy for county purposes can be fixed by the

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county court, subject to the constitutional limitation, only at such a figure so as to produce no more than 110% of the previous year's anticipated revenue from real and personal property.

Respectfully submitted,

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