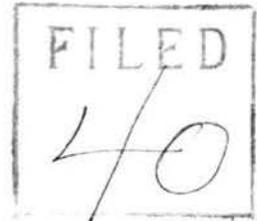


RELATING TO POWER OF COUNTY BOARDS OF EQUALIZATION TO  
MAKE ASSESSMENT OF PROPERTY OMITTED FROM ASSESSOR'S BOOKS:

April 28th, 1934

5-14



Hon. Walter M. Hilbert  
Pres. Atty. Lewis County  
Monticello, Missouri

Dear Sir:

We acknowledge receipt of your letter of date of April 18th, 1934 in which you inquire and state as follows:

"One Samuel Mattingly, a resident of Lewis County, Missouri, departed this life some six months ago. At the time of his death he was the owner of about \$40,000.00 par value of Corporate stock in the U.S. Steel Corporation of Pennsylvania. He had owned this stock since before June 1, 1933. This stock has been inventoried among the assets of the estate of the said Samuel Mattingly.

The Board of Equalization of this county has added the amount of the above stocks to the assessment list of Mr. Mattingly as this item was not included in the list of property given to the Assessor of this county by Mr. Mattingly prior to his death.

In your opinion has the Board of Equalization the lawful right to make such an increase in Mr. Mattingly's assessment? Please give me your opinion at once."

I.

County boards of equalization may assess property omitted from assessor's books.

Section 9816 Revised Statutes, 1929, reads as follows:

"The county board of equalization, at its annual meeting in each year, in addition to the powers now conferred by law, shall have authority to assess and equalize the value of any property that may have been omitted from the assessor's books then under examination by said board, and in case said

Hon. Walter M. Hilbert

April 28th, 1934

shall add any property, real or personal, to said assessor's books, it shall cause notice in writing to be served upon the owner of such property, stating the kind and class of property and the value fixed thereon by said board, and naming the time and place, not less than five days thereafter, when and where such owner may appear before said board and show cause why said assessment should not be made. At the time fixed, said board shall again meet and give an opportunity to said taxpayer to be heard in regard to said assessment, and may change or alter the same upon it being shown by said owner that said assessment was erroneous or improperly made; otherwise, said property and the valuation, as fixed by said board, shall be extended upon the assessor's books, as in case of other property. Said notice shall be signed by the clerk of the county court and shall be served by the sheriff of the county, and it shall be the duty of the prosecuting attorney, when called upon by the board of equalization, to represent said county in any such proceedings. In case of the assessment of real estate belonging to nonresidents, publication may be made of the additional assessment in the same manner as publications required by law where the assessment has been increased by said board."

Prior to the enactment of the foregoing statute the courts of our state held that the county boards of equalization had no power to make assessments or adding property to lists returned.

In State ex rel v. Cunningham, 153 Mo. 1. c. 652, the court said:

"The board of equalization have nothing to do with making a list of the property or adding property to the lists returned except in the proceeding contemplated in Section 7537 when the assessor gives written notice to the board that a person has made a false list with intent to defraud. The ordinary duties of the board of equalization pertain only to equalizing values of property on the lists returned by the assessor."

No doubt in view of the above opinion and others

Hon. Walter M. Hilbert

April 28th, 1934

as well the legislature in session of 1903, passed section 9816 Supra. to vest the board of equalization with power to assess and equalize the value of any property that may have been omitted from the assessor's books, then under examination by said board.

Under the provisions of the above statute where property is added it becomes necessary that notice be served upon the owner or his legal representative, stating the kind and class of property, and the value fixed thereon by said board, and fixing a time and place not less than five days after service of said notice, when and where such owner or his legal representative may appear before said board and show cause, if any, why such assessment should not be made.

It is therefore the opinion of this department if the foregoing proceedings are followed, the board of equalization have the power and authority under the law as it now is to add property to lists which may have been omitted from the assessor's books.

Very truly yours,

~~W. W. Barnes~~

Assistant Attorney-General

APPROVED:

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Attorney General