

TAXATION:-Board of Equalization and Board of Appeals have the inherent right to adjourn from time to time to carry out the duties imposed upon them by Statute.

September 15, 1934.

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



Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"The following question has been submitted to us from three counties recently and we desire to have your opinion before advising them.

"The law provides that the County Board of Equalization shall meet on the first Monday in April and the Board of Appeals shall meet on the fourth Monday in April. The question is, in case the Board of Equalization is unable to complete its work between the two dates above named can the Board of Equalization adjourn court in course or adjourn to some future date and reassemble again and transact business after the Board of Appeals has passed upon the matters considered by the Board of Equalization at its first meeting and in turn adjourn the Board of Appeals to reassemble after the succeeding session of the Board of Equalization to care for matters considered at the second session of the Board of Equalization?"

We believe that the County Board of Equalization and the Board of Appeals have the inherent power to adjourn from time to time until each body has completed the business properly before it. There is a provision in the Statute, as set out in your letter, which provides when said Boards shall convene, but there is no provision in the Statute which limits the time the Boards may be in session.

In *Black V. McGonigle*, 103 Mo. 192, the question was raised as to the right of the County Board of Equalization to adjourn for a sufficient length of time to correct an erroneous notice. The Court at page 200 says:

"The question then arises whether the board on discovering the mistake had the power to order a new notice. The statute requires the board to meet at the office of the county clerk on the first Monday of April. The board did so meet and this is affirmatively shown by its record. The statute does not say anything about adjournments, still it must have been in the contemplation of the legislature that the board could and would hold its sessions long enough to dispose of the business before it, and in many counties this would necessitate various adjournments. That the board has the power to adjourn from time to time, we entertain no doubt whatever."

In State ex rel. Wyatt v. Vaile, 122 Mo. 33, the question of the Board's power to adjourn was also raised and the Court says at page 43:

"The statute says nothing about the power of the board to adjourn from time to time, but the want of such a provision in the law is immaterial; for the board had the inherent power to adjourn from time to time as the business before it might in its judgment demand. It follows from what has been before said that the board had the right and power to adjourn from Kansas City to Independence as it did. The fact that the board at its first meeting at Kansas City declared its intention to meet at Independence on the fourteenth when it did not meet at that place until the twenty-first is immaterial. The orders of adjournment made from day to day after the fourteenth had the effect to modify the order made on the third."

It is therefore the opinion of this Department that the Board of Equalization may adjourn to some date after the meeting of the Board of Appeals, and that the Board of Appeals may adjourn to pass upon matters which the Board of Equalization hears at its second session.

Very truly yours,

FRANK W. HAYES,
Assistant Attorney General.

APPROVED:

Attorney General.