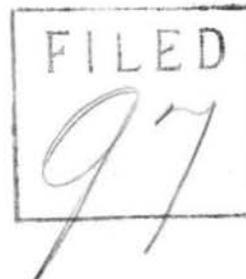


TAXATION:

Merchant pays ad valorem tax on the highest amount of property owned, possessed or controlled from March until June.

August 18, 1936.

8-19



Honorable Andy W. Wilcox
Chairman State Tax Commission
Capitol Building
Jefferson City, Missouri

Dear Mr. Chairman:

This is to acknowledge your letter wherein you enclosed a communication from Mr. Lester A. Hall, Assessor of Holt County. Mr. Hall's letter had appended to it a Merchant's Assessment List from Mr. E. McQuerry, Mound City, Missouri. Mr. McQuerry appended to his Merchant's Statement a letter which explained his reason for not having a higher assessment statement. Mr. McQuerry's letter in part reads:

"I enclose herewith my 'Merchant's Statement' regarding the liquor store at Maitland, and you will note that I have given the value at \$600.00.
* * * * *

"Early last winter there was an attempt to rob the place and we tried to get room in a vault at Maitland to place some of the stock in for safe-keeping but we were unable to get the vault. Failing in this, my creditors who were apprehensive of so much stock and little protection, and myself made arrangements with the State Liquor Inspector to leave a large part of the stock in the warehouse at Rock Port, making it available at any time it was needed.

"I realize that the law says there is to be \$1000.00 worth of stock in addition to the liquor."

The question to be decided is whether or not Mr. McQuerry is to pay an ad valorem tax on the greatest amount of goods, wares and merchandise that he had on hand during the taxable period, or should he pay an ad valorem tax on goods, wares and merchandise that he does not own or have on hand because his liquor license requires \$1000.00 or more of merchandise in addition to the stock of liquor.

Section 22, Laws of Missouri, 1935, page 274, of the Liquor Control Act, provides as follows, in part:

"Provided, however, that no license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with the operation of one or more of the following business: A drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery and/or delicatessen store, nor to any such person who does not have and keep in his store a stock of goods having a value according to invoices of at least one thousand (\$1000.00) dollars, exclusive of fixtures and intoxicating liquors."

The Liquor Control Act is very specific and requires a person having a license to sell intoxicating liquor in the original package, not to be consumed upon the premises where sold, to have a stock of goods of the value of \$1000.00, exclusive of fixtures and intoxicating liquors. Mr. McQuerry could not obtain a license to dispense liquor unless he complied with Section 22. He evidently attempts to comply with the above proviso because he states that he "made arrangements with the State Liquor Inspector to leave a large part of the stock in the warehouse at Rockport, making it available at any time it was needed."

Section 10077, R. S. Mo. 1929, provides as follows:

"Merchants shall pay an ad valorem tax equal to that which is levied upon real estate, on the highest amount of all goods, wares and merchandise which they may have in their possession or under their control, whether owned by them or consigned to them for sale, at any time

between the first Monday in March and the first Monday in June in each year: Provided, that no commission merchant shall be required to pay any tax on any unmanufactured article, the growth or produce of this or any other state, which may have been consigned for sale, and in which he has no ownership or interest other than his commission."

You will note that the above section requires merchants to pay an ad valorem tax "on the highest amount of all goods, wares and merchandise which they may have in their possession or under their control, whether owned by them or consigned to them for sale." If Mr. McQuerry has a liquor store at Rockport, but is owned by him or in his possession or under his control, then of course the stock at Rockport should be returned for assessment purposes. However, Section 10077, supra, only provides for the paying of an ad valorem tax by merchants on the amount of goods such own or in their control, and if Mr. McQuerry does own or have under his control only \$600.00 worth of goods, that would be all the tax he would have to pay, regardless of what he was supposed to have on hand by virtue of Section 22.

In other words, if Mr. McQuerry violates the provisions of Section 22, supra, by not having the required stock of goods, in addition to fixtures and liquor, it would give the assessor no right to exact an ad valorem tax on the amount that he should have on hand in order to comply with Section 22. However, when a Merchant's Statement is returned to the assessor and said merchant is engaged in the retail liquor business, we believe the assessor should investigate and find out why the stock of goods is not being kept as provided by Section 22. The assessor has the right to conduct his own investigation as to property liable for taxation and not returned. However, if after his investigation, he finds that \$600.00 represents the highest amount of all goods, wares and merchandise owned or in the possession of or under the control of the merchant returning the statement, that is the figure that is to be returned for taxation purposes.

We are returning Mr. Hall's letter, together with the Merchant's Assessment list and letter of Mr. E. McQuerry.

Yours very truly,

APPROVED:

James L. HornBostel
Assistant Attorney-General