

ASSESSORS: Not entitled to charge for list of each stockholder in a bank, but can charge for only one bank list.

September 21, 1936. 9-23

Hon. Mark W. Wilson,
Prosecuting Attorney,
Henry County,
Clinton, Missouri.



Dear Sir:

We acknowledge your recent inquiry, which is as follows:

"I will appreciate your opinion on the following propositions:

"The Township assessor assessed 360 stockholders of a bank on their respective shares of stock. The County Clerk of the County at that time told him he was entitled to charge 10 cents for each entry of the stockholders names in the assessment book, which amount was charged by the assessor, but the State Auditor informs said assessor that this amount will have to be refunded. Do you think this is the law?"

"Also the State Tax Commission informs the assessor that he is entitled to make a separate tax list for each non-resident stockholder for which he may charge 35 cents each. Is this correct?"

"I will appreciate your prompt reply on these propositions."

Replying thereto, Laws of Missouri, 1931, page 357, Section 9765, prescribes the course the assessor shall take in assessing bank stock, and among other things provides as follows:

"Persons owning shares of stock in banks, or in joint stock institutions or associations doing a banking business, shall not be required to deliver to the assessor a list thereof, but the president or other chief officer of such corporation, institution or association shall, under oath, deliver to the assessor a list of all shares of stock held therein, and the face value thereof, * * *. It is hereby made the duty of the county clerk to include in his abstract of the assessor's books required to be sent to the state auditor, valuation of all property assessed under this section under the head of 'corporate companies,' and, in addition thereto, he shall make out from the lists delivered to the assessor as above provided, and send the same to the state auditor to be laid before the state board of equalization, * * * an abstract of the assessment of all corporations * * * doing a banking business in his county, showing the name of each bank, the number of shares of stock and their face value, the amount of reserve funds, undivided profits, premiums or earnings, and all other values, together with the assessed value thereof, * * *."

It will be noted that said section specifically provides that the person owning shares of stock in the bank is not required to deliver a list thereof to the assessor, but, on the contrary, the chief officer of such bank shall deliver to the assessor "a list" of all shares of the bank stock.

It is true that further on the section provides that the county clerk shall include in his abstract of the assessor's books to the Auditor the bank stock, and it states "he shall make out from the lists delivered to the assessor as above provided," etc., but that latter is a pronouncement with respect to the duties of the county clerk, and not with reference to the duties of the assessor. On the contrary, the statute in speaking of the duties of the assessor with respect thereto uses the singular, to-wit, "a list thereof", which indicates that the Legislature had in mind a single list, though it comprise all of the bank stock of the bank, in speaking of the duties of the assessor with reference to the assessment thereof. What the Legislature said later in the section with reference to the duties of the county clerk does not enlarge the meaning of what they said earlier with reference to the duties of the assessor to the extent that he

would be entitled to consider each shareholder a separate list, in view of the fact that statutes authorizing the payment of fees to officials are given strict construction, and in view of the further fact that there is some probability that the assessor would not be entitled to double compensation or to compensation for taking two lists from the same person if that person happened to own other property assessable in the county in addition to bank stock.

In the case of State ex rel. Troll v. Brown, 146 Mo. 401, l. c. 406, the Supreme Court of this state says:

"It is well settled that no officer is entitled to fees of any kind unless provided for by statute, and being solely of statutory right, statutes allowing the same must be strictly construed. State ex rel. v. Wofford, 116 Mo. 220; Shed vs. Railroad, 67 Mo. 687; Gammon v. Lafayette Co., 76 Mo. 675. In the case last cited it is said: 'The right of a public officer to fees is derived from the statute. He is entitled to no fees for services he may perform as such officer, unless the statute gives it. When the statute fails to provide a fee for services he is required to perform as a public officer, he has no claim upon the state for compensation for such services.' Williams v. Chariton Co., 85 Mo. 645."

To like effect is the case of State ex rel. v. Gordon, 245 Mo. 12, l. c. 27, and also the case of King v. Riverland Levee District, 279 S. W. 195, l. c. 196.

Giving said statute such strict construction, it does not appear to comprehend the action of the assessor in so charging.

CONCLUSION

It is our opinion that the assessor of a given county who takes the sworn list of bank stock from the chief officer of a bank, said list containing more names than one of the shareholders in said bank, is entitled to charge for one list,

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that being the list furnished to him by the chief officer of said bank. It is our further opinion that such assessor is not authorized by the statutes as now written to charge for additional lists or to consider as a list each of the separate shareholders in said bank.

Yours very truly,

DRAKE WATSON,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN,
(Acting) Attorney General.

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