

TAXATION: COUNTY COURT: The county court has authority to settle excessive taxes by reducing assessment down to the fair valuation as of the date the taxes are assessed.

July 26, 1939

Honorable Latney Barnes  
Prosecuting Attorney  
Audrain County  
Mexico, Missouri



Dear Sir:

This acknowledges receipt of your request, which is as follows:

"Some years ago the Farm and Home Savings and Loan Association of Missouri took over the properties of Hardin College, now defunct, when the college was unable to meet its indebtedness to Farm and Home. Since that time it has remained idle with the exception of from April 1936 to September 1937 when it was used exclusively by the N. Y. A. Administration as a camp for girls. The Farm and Home contends that at least during that period it was used for educational and charitable purposes, and refused to pay the taxes for the years 1937 and 1938, contending that on June 1st, 1936 and 1937 when the property was being assessed for the ensuing year, it was under the control of the Federal Government. The property is under contract to be sold to the Mexico Public Schools to be returned to educational uses.

Further, the property was assessed at \$100,000 for the 1937 and 1938 tax years, and was reduced to \$50,000 for the 1939 tax year. The property is actually under contract of sale to the Mexico School Board for \$25,000.

In addition to contending that the property was not taxable at all, Farm and Home contends that even if it was taxable the tax was erroneous within the meaning of Section 9946, Laws of Missouri 1933 page 424. Will you inform me under the situation set forth above whether or not the County Court of Audrain County, Missouri may compromise the back taxes assessed against Farm and Home?

I am informed that an opinion was written by your office under date of November 24, 1934 to Walter Miller, Assessor of Jackson County, Missouri, which may cover this situation. I would appreciate an early reply to this inquiry as all interested parties are anxious to get the matter settled."

Section 36 of Article VI of the Missouri Constitution is the source of power of the county court. It reads in part as follows:

"In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law."

Pursuant to that section of the Constitution, the legislature, Session Acts, 1933, page 424, passed the following law:

"In all cases where any assessor or assessors, the county court, or assessment board, or any city council or assessment board, shall have assessed and levied taxes, general or special, on any real estate, according to law, whether the same be delinquent or otherwise, and until the same are paid and collected, with all costs, interests and penalties thereon, the city coun-

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cil of any city and the county court of any county shall have the full power to correct any errors which may appear in connection therewith, whether of valuation, subject to the provisions of the Constitution of this state, or of description, or ownership, double assessment, omission from the assessment list of books, or otherwise, and to make such valuations, assessment and levy conform in all respect to the facts and requirement of the law. Any description or designation of property for assessment purposes by which it may be identified or located shall be a sufficient and valid description or designation."

The evident purpose of this law was to invest the county court with the power to faithfully, fairly and impartially correct errors in connection with the valuation or taxing of property. The provisions of said section are general, and it would seem that the authorization there given to the county court to correct errors of valuation would invest the county court with the power to determine a fair valuation of the property that is taxed, although that property may have been valued at an excessive valuation by the assessor or other officers anterior thereto.

Your situation seems to be in a nut shell that property was assessed at a valuation higher than the actual valuation of the property as of the date of the assessment. You now desire to know whether the county court has authority to relieve against the excessive amount of tax standing against that property so that the property will properly pay only the correct amount of tax on the fair and proper valuation of said property as of the date the assessment was made.

We do not understand your inquiry to raise the question as to a changed valuation of the property as of the date it is payable as compared with the fair value of the property as of the date it was assessed, and we are not discussing the value of it as of the date it is payable but are confining this discussion to the fair value of the property as of the date the assessment was made, which would be June 1st of the year prior to the year in which the taxes are payable.

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It appears to us that the law passed by the 1933 legislature, and set out here above, was intended to meet the situation that is before us and that under the provisions of that law the county court of Audrain County is authorized to correct the valuation of the given piece of property so that the valuation, as fixed by them, will be the fair and true valuation of said property as of June 1st of the year preceding the year in which the taxes are payable.

Respectfully submitted,

DRAKE WATSON  
Assistant Attorney General

APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney General

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