

TAXATION: County assessor should file individual tax lists with the county clerk after making up his land and personal property books.

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March 3, 1939

Mr. Shap R. Hunter, Jr.  
Assessor, New Madrid County  
New Madrid, Missouri



Dear Sir:

We are in receipt of your request for an opinion under date of February 24th, 1939, which reads in part as follows:

"I have always been under the impression that all the Assessor turned over to the County Court was the Assessment Books after they were completed and an abstract of the Books together with an affidavit that the Books are correct as far as the Assessor is able to ascertain, and that this must be done before the 20th day of January of each year. I have complied with the Law in that respect. Now the County Court claims I have to submit to them the assessment lists with Real Estate and Personal Property set forth together with the Valuation of the Real Estate all on one list. They claim the new Law passed by the Legislature in 1937 requires me to do this and also gives them the right to audit the Assessment lists.

"I have made all the Assessment lists according to my instructions with the exception that I have not placed Real Estate and Personal Property on the same blank. I have also made all Non Resident lists according to the instructions we have always followed.

"This new Law was submitted by the County Assessors Association and they had it passed because as I understand the Supreme Court held if the word Real Estate was not inserted in the Law we would not be allowed fees for taking the Non Resident lists. The Association

pushed and had this bill passed.

"Section 9800 General Revenue Law compiled by The State Auditor says the Assessment list of Taxable Property whether made by the Tax Payer or the Assessor is only a memorandum for the personal use of the Assessor in making up the Assessment Books and are not required to be turned over to the County Court. State vs. Carr 178 Mo 229 77 SW 543. If this is correct I have complied with the Law and would like to have your Opinion."

Section 9756 R. S. Missouri, 1929, was repealed by the Session Laws of 1937, page 570 and a new section re-enacted with the same number as set out in the Revised Statutes of Missouri, 1929. The only difference being, in the re-enactment real estate is included on the blanks as furnished by the county clerk to the county assessor. The date of the assessment of course is changed and several items of property have been excluded which are not in use at the present time, such as hacks, carriages, etc. It will be noticed in this section that the first subject matter covered by the assessment list is a list of all the real estate and its value which should be listed and assessed on the first day of June, 1937. Under this section the real estate should be listed on the assessment list and then be followed by a list of the personal property as set out in said section.

In checking the case of State v. Carr, 178 Mo., 229, as set out in your request, we find that the court in that case only held that the list is a memoranda for the use of the county assessor and is secondary evidence for the reason that the property books as made out from the list are the primary and best evidence. This case does not hold that the county assessor is not required to turn the list over to the county court.

Section 9759 R. S. Missouri, 1929, which has not been repealed and has been in effect for many years, reads as follows:

\* \* "The list and oath required by this section shall be by the assessor, after he

has completed his assessor's books, filed in the office of the county clerk, and by him, after entering the filing of the same thereon, be preserved and safely kept. The courts having criminal jurisdiction shall, at each term, give this section in charge of the grand jury, who shall have authority to examine such lists, with a view of inquiring into the correctness of such lists; and no such list shall be altered, changed or amended after it is filed with the county clerk, except by order of the county court; and any person who shall alter, change or amend any such list without such order shall, upon conviction, be fined not less than ten nor more than one hundred dollars; and every county clerk or deputy county clerk who shall knowingly permit any such list to be altered, changed or amended without such order, shall forfeit one hundred dollars, to be recovered by suit upon his official bond."

It will be noticed by this section that the list and oath required by the section shall be filed in the office of the county clerk after the county assessor has made up his books and the county clerk is responsible for the preservation and safety of the lists.

#### CONCLUSION.

In view of the above authorities it is the opinion of this department that the lists as set out in section 9756 should cover the real estate and the personal property as set out in said section upon one list from each and every tax payer and reading other sections in reference to duties of the county assessor when the tax payer does not furnish a proper list it becomes the duty of the county assessor to make out a proper list. Each list should contain real estate as well as personal property.

Mr. Shap R. Hunter, Jr. (4)

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It is also the opinion of this department that after the county assessor has made up the regular land and personal property books from the lists as turned in by the tax payer, or as made up by the county assessor, then the lists should be filed with the county clerk.

Respectfully submitted,

W. J. BURKE  
Assistant Attorney General

WJB:RW

APPROVED:

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J. W. BUFFINGTON  
(Acting) Attorney General.