

TAXATION:
STATE TAX COMMISSION:
INTERSTATE BUS AND TRUCK LINES:

Only properties of bus
and truck lines used in
interstate business may
be assessed by State Tax
Commission.

----- January 21, 1941 -----

Mr. Clarence Evans, Chairman
State Tax Commission of Missouri
Jefferson City, Missouri



Dear Sir:

This is in reply to your request of recent date,
wherein you submit the following statement of facts:

"The General Assembly of 1939 amended
Section 10066 by adding thereto inter-
state bus and truck lines as a class
of public utility property to be
assessed by the State Tax Commission,
found on page 872 Laws of 1939.

"A contention exists among owners of
this class of property concerning what
portion of their equipment is subject
to assessment by the Tax Commission
and what portion by the local assessor.

"Various companies do both kinds of
business; for instance, a household
goods mover, whose principal operation
is in Missouri, intra-state, also holds
inter-state authority and makes one or
two trips a month out of the State.
Should all the equipment owned by said
company be assessed by the Tax Commis-
sion or only that portion of the equip-
ment for which he holds public service
commission permits to operate inter-
state business?"

The provisions of the taxing statutes pertinent to
your question are as follows: Laws of Missouri 1939,

page 872, Section 10,066. This section, in so far as it applies to your question, provides as follows:

"* * * * * and all property, real and personal, including the franchises owned by * * * interstate bus and truck lines, * * * shall be subject to taxation for state, county, municipal and other local purposes to the same extent as the property of private persons. And taxes levied thereon shall be levied and collected in the manner as is now or may hereafter be provided by law for the taxation of railroad property in this state, and county courts, and the county and state boards of equalization are hereby required to perform the same duties and are given the same powers in assessing, equalizing and adjusting the taxes on the property set forth in this section as the said courts and boards of equalization have or may hereafter be empowered with in assessing, equalizing, and adjusting the taxes on railroad property; and the president or other chief officer of any such * * * interstate bus and truck lines, * * * is hereby required to render statements of the property of such * * * interstate bus and truck lines, * * * in like manner as the president, or other chief officer of the railroad company is now or may hereafter be required to render for the taxation of railroad property."

Prior to the amendment of said Section 10,066 so that it included interstate bus and truck lines such lines were taxable, if they were taxable, under the provisions of

Section 9764, R. S. Mo. 1929, which provides as follows:

"All personal property of business and manufacturing corporations shall be taxable in the county in which such property may be situated on the 1st day of June of the year for which such taxes may be assessed, and every business or manufacturing corporation having or owning personal property on the 1st day of June in each year, which shall, on said date, be situated in any other county than the one in which said corporation is located, shall make return thereof to the assessor of such county where situated, in the same manner as other personal property is required by law to be returned. This section shall not apply to railroad or banking corporations."

By this section the property is assessed by the local county officials.

By the 1939 Amendment, apparently it was the intention of the lawmakers to place the duty of assessing interstate bus and truck lines in the State Board.

In Volume 61 C. J. at page 190, Sec. 154, the following rule is announced as to taxation of personal property:

"Personal property unless exempt, is subject to taxation, whether it be tangible or whether it be intangible. But in order to be taxable, personal property must come within the descriptive terms or application of the statute imposing the tax, * * * * *"

(Italics ours.)

Applying this rule to the question here, in order for properties of the interstate bus and truck lines to be tax-

able by the State Board such properties must come within the descriptive terms or application of the statute imposing the tax. In other words, such property must be property used in the interstate bus and truck line business. Otherwise, it would be taxable under said Section 9764, *supra*.

In the case of *State ex rel. Halferty, v. Kansas City Power & Light Co.*, 145 S. W. (2d) 116, l. c. 120, at paragraph 4, the court, in speaking of the requirements of the law before we can have a lawful assessment, said:

"It is conceded that under our system of taxation there can be no lawful collection of a tax until there is a lawful assessment and there can be no lawful assessment except in the manner prescribed by law and of property designated by law for that purpose. See *State ex rel. Union Electric Light & Power Co. v. Baker et al.*, 316 Mo. 853, 293 S. W. 399, (cited by both sides.) This principle is well settled and needs no further citation of authorities. * *"

Apparently when the General Assembly was amending Section 10,066, *supra*, so that it included interstate bus and truck lines, it did not have in mind to change the mode of assessing and taxing of bus and truck lines which were not interstate.

In the case of *State ex rel. School District of Plattsburg v. Bowman*, 178 Mo. 654, at l. c. 660, the court, in discussing the intention of the General Assembly to include certain properties for taxation and to exclude others, said:

"It seems reasonably clear, however, that the Legislature did not have in mind partnership property when it enacted section 9121, and that that section is properly referable only to property owned by an individual. And

this being true, the statute must be deemed to be silent as to the assessment and taxation of partnership property; and, therefore, the general rules of law pointed out must be held to obtain."

So here, in the question involved, the General Assembly having only included properties of interstate bus and truck lines for taxation under Section 10,066, which is silent as to the assessment of intrastate bus and truck lines, the general statute for assessment of bus and truck lines would still be in full force and effect as to bus and truck lines which do intrastate business and they would, therefore, be assessed by the local authorities.

CONCLUSION.

From the foregoing, it is the opinion of this department that the State Tax Commission should assess only that portion of the equipment of interstate bus and truck lines for which they hold a public service commission permit to operate interstate business.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney-General

TWB:CP

APPROVED:

COVELL R. HEWITT
(Acting) Attorney-General