

COUNTY BOARD OF EQUALIZATION: Cannot equalize values between farm lands and city lots; cannot raise value of a class of property.

April 24, 1941

4-75



Honorable W. A. Tibbs
Clerk of the County Court
Macon, Missouri

Dear Sir:

Under date of April 19, 1941, you wrote this office asking for an opinion upon the following questions:

"Is there any way that the County Board of Equalization can raise property under assessed by the Assessor and in the end have a greater valuation than certified by the State Tax Commission? This condition seems to apply to town lots."

"Can the Board raise Town lots and take this amount off of acreage, in an attempt to equalize?"

In order to furnish you with an opinion on your questions, it is necessary to refer to certain sections of the Statutes and these sections are set out herein. The first of these is Section 11036, Article 5, Chapter 74, R. S. Missouri 1939. This section pertains to the duties of the State Auditor and the State Board of Equalization in connection with the equalizing of values. The section is as follows:

"The state auditor shall lay before the board of equalization the abstracts of all the taxable property in the state and the abstracts of the sales of real estate in such counties as returned to him by the respective county clerks and the president of the board of assessors of the city of St. Louis, and the board

shall classify all real estate situate in cities, towns and villages as town lots, and all other real estate as farming lands, and shall classify all personal property as follows: First, banking corporations; second, railroad corporations; third, street railway corporations; fourth, all other corporations; fifth, bonds, notes and evidences of indebtedness; sixth, horses, mares and geldings; seventh, mules; eighth, asses and jennets; ninth, neat cattle; tenth, sheep; eleventh, swine; twelfth, farm implements and all other personal property. And the board shall proceed to equalize the valuation of each class thereof among the respective counties of the state in the following manner:

"First--It shall add to the valuation of each class of the property, real or personal, of each county which it believes to be valued below its real value in money such per centum as will increase the same in each case to its true value.

"Second--It shall deduct from the valuation of each class of the property, real or personal, of each county which it believes to be valued above its real value in money such per centum as will reduce the same in each case to its true value."

It will be noted that for the purposes of equalization this section requires all property to be divided into classes. Real estate being in two classes, namely, Town Lots and Farming Lands. And further that the State Board of Equalization equalizes between the classes.

The next sections are 11002 and 11003, Article 3, Chapter 74, R. S. Missouri 1939, and they prescribe the

powers and duties and the rules to be observed by the County Board of Equalization. The sections are respectively as follows:

"Sec. 11002. Its powers and duties. Said board shall have power to hear complaints and to equalize the valuation and assessments upon all real and personal property within the county which is made taxable by law, and, having each taken an oath, to be administered by the clerk, fairly and impartially to equalize the valuation of all the taxable property in such county, shall immediately proceed to equalize the valuation and assessment of all such property, both real and personal, within their counties respectively, so that each tract of land shall be entered on the tax book at its true value; Provided, that said board shall not reduce the valuation of the real or personal property of the county below the value thereof as fixed by said state board of equalization."

"Sec. 11003. Rules to be observed. The following rules shall be observed by county boards of equalization: First, they shall raise the valuation of all such tracts or parcels of land and any personal property, such as in their opinion have been returned below their real value, according to the rule prescribed by this chapter for such valuation; but, after the board shall have raised the valuation of such real estate, it shall give notice of the fact, specifying the property and the amount raised to the persons owning or controlling the same, by personal notice, through the mail or by advertisement in any paper published in the county, and that said board shall meet on the fourth Monday of April, except in counties con-

taining a population of more than seventy thousand and less than one hundred thousand, in which counties such board shall meet on the fourth Monday of March of each year, to hear reasons, if any may be given, why such increase should not be made; second, they shall reduce the valuation of such tract or parcels of land or any personal property which, in their opinion, has been returned above its true value as compared with the average valuation of all the real and personal property of the county."

Attention is called to the fact that the County Board of Equalization is required to equalize the values of the individual parcels or tracts of lands and the items of personal property.

In the case of State ex rel. Thompson, State Auditor, et al. v. Dirckx, County Clerk, 11 S. W. Reporter, 2d Series, page 38, decided by the Supreme Court of Missouri, in discussing the duties and functions of the State Board of Equalization and the County Board of Equalization, after citing and quoting from the sections of the statutes applicable, at page 41 said:

"* * * The latter section requires the state board of equalization to classify all personal property in the state under twelve different heads, and then, 'to equalize the valuation of each class thereof among the respective counties of the state.' In doing so they are bound to add to, or deduct from, the valuation of each class of property of each county such per centum as will bring it to its true value in money. And when the state board in the discharge of this statutory function has determined

and fixed the valuation of a class of property, the county board can neither increase nor reduce it.
 The principles determining this construction are so fully set forth in Mercantile Trust Co. v. Schramm, 269 Mo. 489, 190 S. W. 886, that a further elaboration of them is unnecessary. * * * * *

And in the case of First Trust Company of St. Joseph v. Wells, Collector, 324 Mo. 306, also reported in 23 S. W. (2d) at page 108, the Supreme Court, in discussing assessment and equalization, used the following language at l. c. 312:

"After the county assessor's book is completed, the statute, for the purpose of the equalization of the assessments, classifies personal property under twelve heads, the first of which is that of banking corporations. (Sec. 12855, R. S. 1919.) With respect to the equalization of assessments, the functions of the county board of equalization and the state board of equalization are entirely separate and distinct. The county board's authority is limited to equalizing valuations of property within a class, and in doing so it can neither raise nor lower the aggregate valuation of a class as a whole. (State ex rel. v. Dirckx, 11 S. W. (2d) 38.) The state board's authority is limited to the equalization of the valuation of each class as a whole among the respective counties of the State. In so doing it equalizes the valuations of the several classes with respect to each other, because the 'real value in money' is the standard applied to all. It has no power to raise or lower the valuations of specific prop-

April 24, 1941

erties within a class. (State ex rel. v. Vaile, 122 Mo. 33, 26 S. W. 672.) It is wholly immaterial which board completes the discharge of its duties first, because, as stated, they are wholly independent of each other.
* * * * *

And in the more recent case of State ex rel. City of St. Louis v. Caulfield et al., 62 S. W. Reporter, 2nd Series, page 818, in discussing the State Board of Equalization, the Supreme Court, in banc, cited with approval the two above cases.

While the cases above cited were dealing with personal property, the rule seems to be well settled that the County Board of Equalization can only equalize values between individual properties in the same classes. Farming lands and town lots are different classes.

CONCLUSION

The conclusion is obvious that the County Board of Equalization can not equalize values between town lots and farming lands and that it can not increase the valuation of any class above the valuation as certified to it by the State Tax Commission and the State Auditor.

Respectfully submitted

W. O. JACKSON
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

WOJ:DA