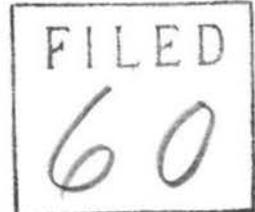


TAXATION AND REVENUE: County clerks duty to extend real estate taxes to the proper road and school districts; both real estate and personal property shall be placed on same list.

October 27, 1943



Honorable Emory C. Medlin
Prosecuting Attorney
Barry County
Cassville, Missouri

Dear Mr. Medlin:

The Attorney-General wishes to acknowledge receipt of your letter of October 19, 1943, in which you request an opinion of this department. This request, omitting caption and signature, is as follows:

"I would like to have an opinion on whose duty it is to place the school district numbers and the road district numbers on the real estate tax books made by the assessor.

"I would like to know if it is the duty of the Assessor or the County Clerk; also we would like to have an opinion in regard to the assessment of real estate, whether the assessor should place both personal property and real estate on the same list."

Your letter contains a request for our opinion on two questions, which we will take up in order.

I.

The first of these queries is whether it is the duty of the county clerk or the assessor to "place the school and the road district numbers on the real estate tax books." From your question we assume that your problem is as to whose duty it is to extend the taxes to the road and school districts.

It is the duty of the county clerk to deliver to the assessor on the first day of June of every odd numbered year, the assessor's book of the last assessment of real estate. This is provided by Section 10964, R. S. Mo. 1939, which is as follows:

"The clerk of the county court shall deliver to the assessor, on or before the first day of June, 1881, and every two years thereafter, the assessor's book of the last assessment of real estate, and the list of taxable lands furnished by the register of lands, and take his receipt therefor; and the assessor, as soon as he shall have completed his assessment and made his assessor's books for the year, shall return the whole of such papers and documents to the clerk."

The assessor is also furnished the proper book for use in the assessment of real estate. This is provided by Section 10973, R. S. Mo. 1939. Such section, in part, provides as follows:

"In all counties, except the city of St. Louis, the assessor shall be provided with two books, one to be called the 'real estate book,' and the other to be called the 'personal assessment book.' The 'real estate book' shall contain all lands subject to assessment.
* * *"

After these books have been furnished the assessor, it then becomes his duty to assess the real estate in his county under the provisions of Section 10950, R. S. Mo. 1939, as follows:

"The assessor or his deputy or deputies shall between the first days of June and January, and after being furnished with the necessary books and blanks by the county clerk at the expense of the county, proceed to take a list of the taxable personal property and real estate in his

county, town or district, and assess the value thereof, in the manner following to wit: * * *

When the assessor has made his assessment as provided in the last mentioned section of the statute, he then returns the books to the county clerk under the provisions of Section 10964, supra.

At the time the assessor returns the books to the county clerk, the taxes have not been extended by the assessor. Nor do we find any provision making it the duty of the assessor to extend the taxes or to place the school district or road district numbers on the real estate books. However, under Section 11048, R. S. Mo. 1939, it is made the duty of the county clerk to extend these taxes. This provision is as follows:

"As soon as the Assessor's book shall be corrected and adjusted, the Clerk of the County Court, except in St. Louis City, shall, within ninety days thereafter, extend the taxes therein in proper columns prepared for such extensions, which book, with the taxes so extended therein, shall be authenticated by the seal of the Court as the Tax book for the use of the Collector; and when the Assessor's book is in two or more volumes, such extension shall be made in all such volumes, and each volume shall be authenticated by the Clerk with the seal of the Court. And upon a failure to make out such extension of taxes in the Assessor's book or books, as the case may be, and deliver same to the Collector in the time specified, the County Court shall deduct twenty per centum from the amount of fees which may be due the Clerk for making such extension, and such Assessor's book, with the taxes so extended therein, shall be called the 'Tax Book.'"

It will be noted that the county clerk shall "extend the taxes therein in proper columns prepared for such extensions." It is, therefore, the opinion of this department that it is the

duty of the county clerk to extend the taxes on the real estate book "to the proper road and school district."

II.

The second question is whether the assessor should place both personal property and real estate on the same list. In the answer to question one, we cited a portion of Section 10950, R. S. Mo. 1939. In answer to this question, we feel that it is better that the entire section be cited, and so we call your attention to its provisions, to-wit:

"The assessor or his deputy or deputies shall between the first days of June and January, and after being furnished with the necessary books and blanks by the county clerk at the expense of the county, proceed to take a list of the taxable personal property and real estate in his county, town or district, and assess the value thereof, in the manner following to-wit: He shall call at the office, place of doing business or residence of each person required by this chapter to list property, and shall require such persons to make a correct statement of all taxable property owned by such person, or under the care, charge or management of such person, except merchandise which may be required to pay a license tax, being in any county of this state in accordance with the provisions of this chapter, and the person listing the property shall enter a true and correct statement of such property, in a printed or written blank prepared for that purpose; which statement after being filled out, shall be signed and sworn to, to the extent required by this chapter by the person listing the property and delivered to the assessor. Such lists shall contain: first, a list of all the real estate and its value, to be listed and assessed on the first of June, 1937, and every year thereafter, anything in this or any other section to the

contrary notwithstanding; second, a list of all the livestock, showing the number of horses, mares, and geldings, and their value; the number of asses and jennets, and their value; and the number of mules and their value; the number of neat cattle, and their value; the number of sheep, and their value; the number of hogs and their value and all other live stock and its value; third, an aggregate statement of all the farm machinery and implements, and their value; fourth, a statement of household property, including the number of pianos and other musical instruments, clocks, watches, chains and appendages, sewing machines, gold and silver plates, jewelry, household and kitchen furniture, and the value thereof; fifth, money on hand; sixth, money deposited in any bank, or other safe place; seventh, an aggregate statement of solvent notes unsecured by mortgage or deed of trust; eighth, an aggregate statement of all solvent notes secured by mortgage or deed of trust; ninth, an aggregate statement of all solvent bonds, whether state, county, town, city, township, incorporated or unincorporated companies; tenth, the number of bee colonies and their value; ten and one-half, all motor vehicles and their value; eleventh, all other property not above enumerated (except merchandise, bills and accounts receivable, and other credits of a merchant or manufacturer, arising out of the sale of goods, wares and merchandise, which have been returned for taxation, under sections 11309 and 11339, R. S. 1939), and its value; under this head shall be included all shares of stock or interest held in steamboats, keelboats, wharfboats, and other vessels; all toll bridges, all printing presses, type and machinery therewith connected, and all portable mills of every description, and all vehicles used in the

transportation of persons (except of railway carriages), and all paintings and statuary, and every other species of property not exempt by law from taxation. The word 'list' as used in Section 10996 of this Chapter shall include all the lists required under this section to be taken."

It will be noted that in prescribing what the list shall contain, the first thing mentioned is real estate; the remaining subsections are all a species of personal property. We think it clear that real estate and personal property shall be placed on the same list by the assessor.

Conclusion

Therefore, it is the opinion of this department, that it is the duty of the county clerk to extend the taxes on the "real estate book" and place such taxes under their proper road or school district. It is further the opinion of this department that both real estate and personal property shall be placed on the same list by the assessor.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

JSP:EG