

ASSESSMENTS: State Tax Commission cannot review assessments made by city assessing authorities.

September 15, 1944

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Honorable Jesse A. Mitchell
Chairman, State Tax Commission
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your letter of September 6, 1944, which reads as follows:

"The State Tax Commission is confronted with a problem which we have not had heretofore.

"A taxpayer of Kansas City has made a return for a certain amount on personal property as of January 1, 1944. The city authorities increased the amount of assessment, said assessment being in excess of the assessment made against the taxpayer by the county. The taxpayer petitions the State Tax Commission to review the assessment.

"Is the State Tax Commission vested with authority to review an assessment made by the city, or do Sections 11027 and 11028 apply only to assessments made by county authorities, city assessments not being referred to nor approved by the State Board of Equalization?

"The contention of the city in this case is that, since the ordinances of Kansas City fixed January 1 as the date of assessment, which is seven months later than the date fixed for state and county assessments, they are not restricted to a value not in excess

of the county assessment.

"Your attention at a date as early as possible will be much appreciated."

Section 10 of Article X of the Constitution of Missouri reads as follows:

"The General Assembly shall not impose taxes upon counties, cities, towns or other municipal corporations or upon the inhabitants or property thereof, for county, city, town or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes."

Pursuant to the above provision of the Constitution, the Legislature of Missouri has vested in the municipality of Kansas City the power to assess and collect taxes for local purposes. Section 371 of Article XII of the Charter of Kansas City provides as follows:

"The Council is hereby given power to provide by ordinance for the assessment, equalization, levy, extension of the tax levy, and the collection and enforcement of city taxes and assessments, general and special."

The City of Kansas City has by ordinances established a system of assessing property, including the right of the property owner to appeal to designated boards from the assessment made by the city assessor. The matter of assessing property within its boundaries and of levying taxes on said property for municipal purposes has thus been delegated to the City of Kansas City. Certain restrictions have been placed upon all cities in exercising such power, but within those restrictions cities can assess property and levy taxes upon it for local purposes.

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The State Tax Commission has been created by statute and its powers and authority defined by statute. By Section 11010, R. S. Missouri, 1939, it is made the duty of the State Tax Commission to "familiarize itself with all the sources of income provided by law for the state and its political subdivisions." It has been held by the Supreme Court of Missouri that the City of Kansas City is not a political subdivision of the state (*City v. Neal*, 122 Mo. 232).

Section 11012, R. S. Missouri, 1939, reads as follows:

"The commission shall fully inform itself concerning all expenditures of the public funds, by whomsoever and for whatsoever purpose made, and the necessity therefor. The commission shall within the first thirty days of each session of the general assembly report its findings and make such recommendations as it believes will best make for efficiency and economy and prevent waste of public funds: Provided, that before said report is made and compiled all departments, bureaus and institutions shall have due notice, and be required to appear and produce evidence as to the needs of such departments, bureaus or institutions."

We think the foregoing statute clearly shows that the duties of the State Tax Commission do not extend to the assessment and collection of taxes in cities. The departments, boards and institutions referred to in said section are clearly those of the state. Furthermore, there would be no purpose in the State Tax Commission reporting to the General Assembly the condition of the finances of each city in the state and the needs of such city because the General Assembly cannot levy taxes on such cities. (See Section 10, Article X, Constitution of Missouri.)

The specific powers and duties of the State Tax Commission are set out in Section 11027 of the statutes as amended, Laws of 1941, page 691. By paragraph (1) of said statute it is provided as follows:

"(1) To have and exercise general supervision over all the assessing officers of this state, over county boards of equalization and appeal in the performance of their duties, and to take such measures as will secure the enforcement of the provisions of this article, and all the properties of this state liable to assessment for taxation shall be placed upon the assessment rolls and assessed in accordance with the letter and plain provisions of the law."

City assessors are not assessing officers of this state. Their assessments are not the basis for the levy of state taxes. Their assessments may be lower than those made for state purposes. In *State ex rel. v. Jaudon*, 286 Mo. 181, 227 S. W. 48, 1. c. 52, the Supreme Court, in discussing Section 11 of Article X of the Constitution, said:

"It is argued that the city assessor need not go as high as the state and county valuation, and can therefore fix his own values, within those bounds. This may be granted, and should be granted; * * * .

* * * * As a fact, in this case, the city assessor's valuation did not exceed the standard, which we conceive to be the one fixed by said section 11, art. 10, of the Constitution, and this constitutional provision does not prohibit a lower valuation by the city assessor. Its prohibition is against excess, and not further. * * * "

It makes no difference to the state what valuation is put on city property for local taxation purposes so long as that valuation does not exceed the valuation placed upon the same property for state and county purposes.

Paragraph (5) of Section 11027, *supra*, provides as follows:

"(5) To furnish the state board of equalization at each session thereof a statement

of the value of the taxable property in each county in the state, and, when so requested, to meet with the state board of equalization. The said statement herein referred to shall include a statement of the amount to be added to or deducted from the valuation of the real and personal property of each county, specifying the amount to be added to or be deducted from the valuation of the real or personal property, to the end that the state board of equalization may adjust and equalize the valuation of real and personal property among the several counties in the state as is provided by law."

Again it is clear that the State Tax Commission is to deal with the valuation of property in each county, not in each city. The State Board of Equalization adjusts and equalizes the valuation of property among the various counties of the state. Section 18 of Article X of the Constitution of Missouri provides, in part, as follows:

* * * * The duty of said board shall be to adjust and equalize the valuation of real and personal property among the several counties in the State, and it shall perform such other duties as are or may be prescribed by law."

There would, therefore, be no purpose in having the State Tax Commission certify to the State Board of Equalization the valuations of city property since the latter body is charged with no duty with respect to equalizing valuations among the several cities of the state.

By Section 11029, R. S. Missouri, 1939, it is made the duty of the secretary of the State Tax Commission to certify to the county clerk changes made in the valuation of the property of a county by that Commission and the State Board of Equalization, and such county clerk is required to furnish a copy thereof to the assessor and one copy to the county board of equalization. Thus, when those agencies have all

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acted and the valuation of all property in the county for state and county purposes has been fixed, then a ceiling, above which cities in such county cannot go, has been determined. All property in a county would thus be valued by the State Tax Commission, including the property in cities in such county. Cities in such county can either use that valuation or a lower valuation, but they cannot use a higher valuation.

CONCLUSION

It is, therefore, the opinion of this office that the State Tax Commission does not have authority to review assessments made by city assessing authorities for purposes of local taxation.

Respectfully submitted

HARRY H. KAY
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APPROVED:

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