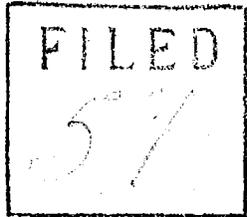


TAXATION AND REVENUE: Procedure to be followed in assessing real property at its true value.



June 4, 1947

6/20

*Copy to
J. Smith*

Honorable G. Logan Marr
Prosecuting Attorney
Morgan County
Versailles, Missouri

Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office, and reading as follows:

"I am requesting a legal opinion on these facts set up in this letter to the Tax Commission, as per their finding on same."

Your letter to the State Tax Commission, referred to, reads as follows:

"Several of our county assessors have had trouble trying to assess for taxation purposes, the Camp, known as The Southern District, Assembly of God, Woodruff Building, Springfield, Mo., c/o Rev. Bert Webb. This Camp consists of 40 acres of the land on the Lake of the Ozarks. It is some kind of a summer retreat for the Church and the ministers of the church. There are several buildings used for the visiting public, a church, ampitheater, an eating house, and a boat dock, and a camping ground. But in addition there are approximately 35 or 40 private dwellings owned by the laymen and ministers of the church group. These improvements are valuable and very substantial, and have been erected for as many as ten years and more being erected each year. There are no deeds recorded as to this property, individually owned and on which the homes are located. There is nothing to show that the same are individually owned.

"The caretaker or the visiting persons, never seem to know who owns what cabin. There has been an attempt to conceal the ownership in order to avoid paying taxes. There is a misconception that because church property is exempt, and because the private dwelling is located on church property, the dwelling is also tax exempt. There is no separate real estate description.

"I am requesting that your traveling auditor for the department come out here, and in cooperation with our assessor try to find some way for the assessor to put this property privately owned on the tax books. Further, it seems that any of the church investment, in excess of five acres, would be taxable, along with these private dwellings.

"Let me know what procedure you suggest in order to help the assessor in assessing this property. How is the best way to get the same named and located to make an assessment valid?"

Further, you have orally informed the writer that the real property referred to in your letter to the State Tax Commission is now on the tax rolls of Morgan County, Missouri, but valued at an amount far below the true value of the real property and improvements thereon.

In view of the matters presented, it first becomes of importance to determine whether or not the real property is subject to taxation. This, in each instance, is a question of fact and one upon which we do not presume to pass. The applicable rules are discussed in an official opinion of this office delivered under date of October 17, 1946, to the Honorable William S. Thompson, Prosecuting Attorney of Mercer County, Missouri. For the benefit of the discussion contained therein, a copy of that opinion is enclosed herewith.

Assuming that a full investigation of the facts discloses the real property to not be used exclusively for religious purposes, it then becomes of importance to determine the method to be followed in assessing the property at its true value.

The duty of assessing property, both real and personal, rests primarily upon the county assessor under the provisions of Section 11000.9, Mo. R. S. A., which reads, in part, as follows:

" * * * After receiving the necessary forms the assessor or his deputy or deputies shall, except in the City of St. Louis, between the first day of January and the first day of June, 1946, and each year thereafter, proceed to make a list of all real and tangible personal property in his county, town or district, and assess the same at its true value in money in the manner following, to wit: * * * " (The following provisions relate to the segregation of the various types of property, the preparation of the assessment lists and their verification by the oaths of the owners of the property, etc., and are not pertinent to the matter under consideration.)

The "list" referred to in the foregoing statute may be made either by the taxpayer or by the assessor in the event of the failure of the taxpayer to do so. Under the provisions of Section 10950, R. S. Mo. 1939, of which Section 11000.9, Mo. R. S. A., is substantially a reenactment with changes necessary to conform to the new constitutional requirements as to the time of assessing, levying and collecting taxes, it was held that if the taxpayer fails to furnish the sworn list disclosing the nature and value of his property subject to taxation, such failure authorizes the assessor to fix the valuation. See State ex rel. Hawkin v. Edwards, 286 S. W. 25, 315 Mo. 209.

On the other hand, if the taxpayer does furnish such list, the assessor is not bound thereby to the valuations placed upon such property by the owner thereof, as was held in State ex rel. Dobbins v. Reed, 60 S. W. 70, 159 Mo. 77. However, before such valuations may be increased, it is necessary that the assessor comply with the requirements of Section 11000.14, Mo. R. S. A., which reads as follows:

"Whenever any assessor shall increase the valuation of any real property he shall forthwith notify the record owner of such increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of

equalization whereat the land owner shall be entitled to be heard, and the notice to the landowner shall so state."

From the foregoing, it appears that the county assessor is one officer who has authority to make the necessary adjustments in the valuation of property on the rolls to conform with the true value of the property assessed.

There is an additional method by which property returned at less than its true value by either the taxpayer or the assessor may be increased. We refer to the county board of equalization, which, under the provisions of Section 11003, Mo. R. S. A., has been given such power by the following language:

"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 containing 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."

Furthermore, should such property fail to be assessed at its true value as provided by law, by either the county assessor or the county board of equalization, it is still possible that proper adjustments of such valuation may be made. Your attention is

directed to the following provisions of Section 11033.14, Mo. R. S. A., relating to the powers and duties of the state tax commission:

It shall be the duty of the State Tax Commission, and the commissioners shall have authority to perform all duties enumerated in this section and such other duties as may be provided by law:

* * * * *

"(6) To raise or lower the assessed valuation of any real or tangible personal property, including the power to raise or lower the assessed valuation of the real or tangible personal property of any individual, copartnership, company, association or corporation: Provided, that before any such assessment is so raised, notice of the intention of the Commission to raise such assessed valuation and of the time and place at which a hearing thereon will be held, shall be given to such individual, copartnership, company, association or corporation as provided in Section 16.

* * * * *

(Emphasis ours.)

CONCLUSION

In the premises, we are of the opinion that property subject to taxation may have a valuation placed thereon reflecting its true value in either one of the following methods: (1) By action of the county assessor, (2) by action of the county board of equalization, or (3) by action of the state tax commission.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:HR