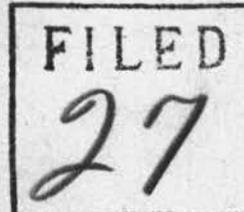


TAXATION) State Tax Commission does not assess pipe line which is not
) a public utility.

April 1, 1950

4/5/50



Honorable Clarence Evans
Chairman, State Tax Commission
Jefferson City, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"On our visits to the counties last fall our attention was called by some local assessors to a pipe line owned and operated by the Standard Oil Company, and running from the refinery at Sugar Creek, Missouri, northwestwardly through Jackson, Clay, Clinton, Buchanan, Andrew, Atchison and Nodaway counties in Missouri, and from there into Iowa, Nebraska, South Dakota, etc. The assessors were at a loss as to why this pipe line was not being assessed by the State Tax Commission, and we promised to look into the matter for them.

"We have inquired of the Standard Oil Company regarding this pipe line, and the correspondence is attached hereto. We will appreciate your returning this correspondence when the opinion has been written. There is some doubt in our minds regarding the assessment of this pipe line by us, and we have checked the records of the Office of Secretary of State, but find no separate pipe line corporation. We are assured of the fact that this pipe line is part of the main business of the refinery, and while it is definitely a pipe line, the question arises as to whether or not it is a public utility, and where it should be assessed.

"We feel that the correspondence covers the case sufficiently, and we will appreciate your advice regarding the assessment of this and other pipe line companies."

Honorable Clarence Evans

The attached correspondence from the Standard Oil Company states that the pipe line in question was constructed and is used for transporting completely refined petroleum products from the company's Sugar Creek refinery to its plants and markets in other states. The line is used exclusively by the company for the transportation of its products and is not a common carrier.

Section 11295, Laws of 1945, page 1852, provides:

"All bridges over streams dividing this State from any other state owned, controlled, managed or leased by any person, corporation, railroad company or joint stock company, and all bridges across or over navigable streams within this state, where the charge is made for crossing the same, which are now constructed, which are in the course of construction, or which shall hereafter be constructed, and all property, real and tangible personal, owned by telegraph, telephone, electric power and light companies, electric transmission lines, pipe line companies and express companies 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, county boards of equalization and the State Tax Commission 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 and State Tax Commission have or may hereafter be empowered with in assessing, equalizing, and adjusting the taxes on railroad property; and the president or other authorized officer of any such bridge, telegraph, telephone, electric power and light companies, electric transmission lines, pipe line companies, or express company or the owner of any such toll bridge, is hereby required to render statements of the property of such bridge, telegraph, telephone, electric power and light companies, electric

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transmission lines, pipe line companies, or express companies in like manner as the president, or other authorized officer of the railroad company is now or may hereafter be required to render for the taxation of railroad property. On or before the first day of May in the year 1946 and each year thereafter the president or other authorized officer of each such company shall furnish the State Tax Commission a statement, duly subscribed and sworn to by said president or other authorized officer, showing the full amount of all real and tangible personal property owned by each such company on January 1st of the year in which the report is due. In case the report from any such company, as required by this section, is not received by May 1st of the year in which it is due the State Tax Commission may, at its discretion, increase by four per cent the total assessed valuation of any such company."

The method of assessment of railroad property is prescribed in Laws of 1945, page 1825. That act required what is known as the "distributable" property of railroads to be assessed by the State Tax Commission, and the "local" property to be assessed by the assessor of the county in which the property is located. In the case of State ex rel. v. C., R. I. & P. Ry. Co. 162 Mo. 391, l. c. 394, 63 S.W. 495, the plan of assessment was described as follows:

"The theory of the system of taxing railroads, as contained in our statute, seems to be that the railroad with all the necessary appurtenances to its efficient equipment as a means of traffic, is to be taken as a whole and assessed for taxation by the State Board of Equalization. That does not, however, include property that is used by a railroad corporation as a collateral facility to its business, such as workshops, etc., nor property held for purposes other than those of a carrier, all of which is subject to taxation by the local authorities."

Subparagraph (12) of Section 15 of an act found in Laws of 1947, Volume I, page 548, provides in part:

"The (State Tax) Commission shall have the exclusive power of original assessment of railroads,

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railroad cars, rolling stock, street railroads, bridges, telegraph, telephone, express companies, and other similar public utility corporations, companies, and firms. * * *

(Underscoring ours.)

The Legislature, in providing for the assessment of pipe line companies in the same manner as railroad companies, did not expressly define what companies should be included within such classification. However, the provision of subparagraph (12) of the 1947 Act, above quoted, when considered in the light of the types of companies enumerated in Section 11295 clearly indicates, we feel, that the Legislature intended to confer upon the State Tax Commission authority to assess only the property of public utilities. The courts have held that the essential feature of a public utility is service to the general public. (State ex rel. v. Baker, 320 Mo. 1146, 9 S. W. (2d) 589.)

The pipe line here in question is not available for service to the general public, and, therefore, is not a public utility. Consequently, we feel that it is not such property as the Legislature intended to be assessed by the State Tax Commission.

Furthermore, the use of the term, "pipe line companies," indicates, we feel, an intention on the part of the Legislature to apply the section to companies, the principal business of which is transporting fuels by pipe line. We do not feel that they intended to include companies which own and use pipe lines as an incident to their principal business.

CONCLUSION

Therefore, this department is of the opinion that a pipe line owned by oil companies and used exclusively by said company for the transportation of its products is not assessable by the State Tax Commission under the provisions of Section 11295, Laws of 1945, page 1582.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
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RRW/feh