

STATE TAX COMMISSION: The State Tax Commission is without authority to reassess real estate or to abate taxes on property which was duly assessed on January 1, 1951, and which, subsequent to that date, suffered a reduction in value due to floods in June and July of 1951.

September 6, 1951

9/17/51

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



Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your opinion request:

"As a result of the recent terrible floods, we are having some requests for a re-assessment of real estate after the flood damage instead of the regular assessment as made on January 1, 1951. Also are having some requests for abatement of taxes.

"We are taking the position that under the law this Commission has no authority to re-assess the property as of a later date than January 1, 1951, and that we have no authority to abate taxes.

"We would be greatly pleased to have your opinion as to whether the position we have taken in these matters is correct."

The authority of the State Tax Commission is set forth in Sections 138.380, 138.390, 138.400, 138.410, 138.420, 138.450, 138.460, 138.470, and 138.480, RSMo 1949.

Because of the length of these sections we will not quote them here. After an examination of them, we are unable to find any authority vested in the State Tax Commission to reassess real estate, under the circumstances set forth in your opinion request, or to abate taxes under these circumstances.

You have informed us orally that those persons who are requesting a reassessment of real estate, and those other persons who are requesting an abatement of taxes, were regu-

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larly and properly assessed on January 1, 1951, in compliance with Section 137.075, RSMo 1949, which section states:

"Every person owning or holding real property or tangible personal property on the first day of January including all such property purchased on that day, shall be liable for taxes thereon during the same calendar year."

You have further informed us that these persons made no appeal to their county boards of equalization or to the State Tax Commission on the ground that such assessments were too high, or that they were made fraudulently, or on any other ground. There is no indication that these persons were dissatisfied with their assessments. On the contrary, it clearly appears that these people are appealing to the State Tax Commission solely in order to gain relief by reason of damage suffered to their property in the flood which occurred in late June and in July, 1951. In other words, they are seeking relief because of a drastic reduction in the value of their property, which reduction in value occurred nearly six months after the assessment of January 1, 1951.

Paragraph 2 of Section 138.460, RSMo 1949, provides that: "* * * All complaints shall be filed with the commission (State Tax Commission) not later than September thirtieth." (Words in parentheses, ours.)

Section 138.110, RSMo 1949, provides that:

"Complaints as to rulings of the county board of equalization in such counties shall be filed according to law with the state tax commission not later than August fifteenth of the year in which such ruling was made."

It is made quite clear, however, by the whole law pertaining to the State Tax Commission, that these appeals are to be from the January first assessment, and from the value of the assessed property as of that date.

Paragraph 4 of Section 138.420, RSMo 1949, states:

"Said commission (State Tax Commission) shall also have all power of original

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assessment of real and tangible property
in the possession of any assessing officer
on January first."

(Words in parentheses, ours.)

At this point we direct your attention to the case of
State ex rel. v. Edwards, 136 Mo. 360. The opinion in this
case was rendered December 15, 1896. On pages 368 and 369 of
that opinion the Court stated:

"The time for the assessment of property in
cities of the third class is governed by the
general law in respect to the assessment of
property for state and county taxation, under
which it is required to be made between the
first days of June and January. Sec. 7531.

* * * *

"In assessing property the owner is required
to list the property owned by him on the
first day of June of the year the assessment
is made, and the value is placed upon it by
the assessing officers as it was on that day.
The work of the assessor can not be done in
one day, and he is given from the first day
of June to the first day of January in which
time he is required to complete the assessment.
But the details of the assessment, when com-
pleted, relate back to the first day of June,
and must be taken as of that day, otherwise
serious complications might arise as is shown
in this case."

It will be observed from the quoted portion of the above
opinion that the assessment dates, at the time the Edwards
opinion was written, were from June first to January first.
These continued to be the assessment dates in Missouri until
Section 10950, R.S. Mo. 1939, was repealed by the Laws of
Missouri 1945 (page 1782). In lieu of repealed Section 10950,
supra, there was enacted Section 10 of House Substitute for
House Bill 469, which changed the assessment dates from June
first to January first, to January first to June first. How-
ever, it seems clear that the law as enunciated in the Edwards'
case, quoted above, would apply even though the assessment dates
have been changed, as noted above, since the Edwards' opinion
was written. Therefore, on the authority of the Edwards' case,
we conclude that assessments are to be based on the value of

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property on hand on January first of each year, which would preclude a reassessment based on a valuation at any date subsequent to January first.

In regard to the authority of the State Tax Commission, the Supreme Court of Missouri, in the case of Brinkerhoff-Faris Trust & Savings Company vs. Hill, 19 S.W. 2d 746, l.c. 751, said:

"* * * The state tax commission is given general supervision over all the assessing officers of the state, with power to enforce its orders; it has all the powers of original assessment; it may receive complaints as to property liable to taxation that has not been assessed, or that has been fraudulently or improperly assessed, and apply the proper corrective measures; it can raise or lower the assessed valuation of real or personal property either in specific instances or by class; and it has authority, on the complaint of any taxpayer and after the various assessment rolls have been passed upon by the several boards of equalization, but before the delivery of the tax rolls to the proper officers for collection, to hold hearings for the purpose of determining whether any property subject to taxation has been omitted from the assessment rolls and whether any property thereon has been improperly valued, and to make such changes with respect thereto as shall be necessary to make the assessment rolls conform to the facts as found by them."

The above case was decided June 29, 1929, since which date there have been numerous revisions in the statutes relating to the State Tax Commission; however, none of these changes have substantially added to or detracted from the authority of the Commission, and certainly have not given it any authority in regard to the reassessment of real estate or the abatement of taxes which it did not have on the date that the Brinkerhoff opinion was written. It is our belief, therefore, that the summary of powers of the State Tax Commission which was made by the Missouri Supreme Court in 1929 is an accurate statement of the powers which the State Tax Commission possesses at this

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time, and it will be observed from the above summary that the State Tax Commission does not have the power to reassess real estate under the circumstances stated in your opinion request, nor to abate taxes under the circumstances.

CONCLUSION.

It is the opinion of this department that the State Tax Commission is without authority to reassess real estate or to abate taxes on property which was duly assessed on January 1, 1951, and which subsequent to that date, suffered a reduction in value due to floods in June and July of 1951.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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