

TAXATION: STATE TAX
COMMISSION:

State Tax Commission is required to apportion the property of a street railroad company to school districts levying taxes for library purposes and library districts based upon the length of line in the district as submitted by the company.



September 23, 1952

9-23-52

Honorable Charles C. Nance
Chairman
State Tax Commission of Missouri
Jefferson City, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this office which request reads as follows:

"I would like to obtain an official opinion of your department in regard to the following questions:

"1. Under the provisions of Section 151.080, R. S. Mo. 1945, as amended by House Bill 497, is the State Tax Commission required or authorized to apportion the property of a 'street railroad' company to library districts or school districts levying taxes for library purposes?

"2. If the preceding question is answered in the affirmative, how is this apportionment made in view of the fact that apparently under Section 151.320, RSMo 1949, a street railroad company in their statement to the State Tax Commission are not required to state what property is located within a library district or a school district levying taxes for library purposes?"

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Section 151.320 RSMo 1949, requires the president or other authorized officer of a street railroad company to submit to the State Tax Commission a statement of property, owned, used or leased by said company as follows:

"On or before the first day of May in each year, the president or other authorized officer of every street railroad company in every city of this state whose line is now or shall hereafter become so far completed and in operation as to run electric cars, trolley cars, motorbusses, or cars propelled by any other device for the transportation of passengers, shall furnish to the state tax commission a statement duly subscribed and sworn to by said president or other authorized officer, before some officer authorized to administer oaths, setting out in detail the full length of the line, so far as completed, including branch or leased lines, the entire length in this state, the length of double or sidetracks, the length of such line located upon real estate to which such company may have title as right of way, the length of such line located upon the public streets or thoroughfares of any city, together with all cars, motors, grip cars, trolley cars, motorbusses, livestock, electric trolley wires, cables, cable conduits, powerhouses, stables and all other real property, and tangible personal property, owned, used or leased on the first day of January which may be used in or incident to the operation of such street railroad, the length of such line in each county, municipal township and city through or in which it is located, and the cash value of the several items embraced in the statement."

Section 151.330, RSMo 1949, provides that the property returned as required by the above section shall be subject to taxation and shall be assessed, apportioned, certified and the taxes collected in the manner which is now or may hereafter be provided by law for the assessment and taxation of other railroad property. This section is as follows:

"The said property returned to the state tax commission, as by section 151.320 required, shall be subject to taxation for state, county,

municipal and other purposes to the same extent as the real and tangible personal property of private persons, and the same shall be assessed, apportioned, certified and the taxes thereon levied and collected at the time and in the manner which is now or may hereafter be provided by law for the assessment and taxation of other railroad property."

There exists no specific statute dealing only with the assessment or apportionment of street railroad property for taxation purposes. The foregoing provisions require a street railroad company to make a return to the State Tax Commission of property, owned, used or leased by the company and such property shall be assessed and apportioned as provided for the assessment and taxation of other railroad property. We are therefore of the opinion that such property is apportioned as provided in House Bill 497, amending Section 151.080, RSMo 1949, setting forth the procedure for apportioning railroad company property. Said House Bill specifically provides for an apportionment to library districts and school districts which levy taxes for library purposes as follows:

"Said commission shall apportion the aggregate value of all property herein specified belonging to or under the control of each railroad company, each county, municipal township, city or incorporated town, special road districts, library districts, school districts which levy taxes for library purposes pursuant to section 137.030 RSMo 1949, public water supply, fire protection and sewer districts or subdivision, except other school districts, in which such road is located, according to the ratio which the number of miles of such road completed in such county, municipal township, city or incorporated town, special road district, library districts, school districts which levy taxes for library purposes pursuant to section 137.030 RSMo 1949, public water supply, fire protection and sewer districts or subdivision, except other school districts, in which such road is located shall bear to the whole length of such road in this state; provided, that in any case where a company whose line or road is liable to taxation shall have been or may become consolidated into another corporation, entitled by its charter or otherwise to exemption from county or other taxation, that portion of the road which

(Underscoring ours.)

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is liable to taxation, as aforesaid, shall be assessed separately, and the value thereof apportioned to the counties, municipal townships, cities or incorporated towns, special road districts, library districts, school districts which levy taxes for library purposes pursuant to section 137.030 RSMo 1949, public water supply, fire protection and sewer districts or subdivision, except other school district, in which it is located; and the president or any authorized officer of each such railroad company shall in the annual statements rendered to the commission, as provided in section 151.020, include statement of the length of the road within school districts which levy taxes for library purposes pursuant to section 137.030 RSMo 1949 and library districts; provided, further, that in no event shall any school district levy school taxes, taxes for the erection of public buildings, or for other purposes except library purposes on the property herein specified, in any manner other than that provided for in section 151.150. (151.080, A.L. 1951 H.B. 497)."

This has long been the interpretation of the Supreme Court of Missouri which is evidenced by the case of State ex rel. School District v. Waddill, 330 Mo. 1118. In that case the court examined statutes substantially the same as those referred to above and concluded:

"A reading of the three sections relating to the assessment and taxation of the property of street railroad companies in connection with those prescribing the method for the assessment and taxation of the property of other railroad companies leaves no doubt but that the property of the former, as described in said Section 10018, is required to be 'assessed, apportioned, certified and the taxes thereon levied' in the manner prescribed for the assessment and taxation of the distributable property of the latter. * * *"

We now turn to your second inquiry regarding the basis for the apportionment of street railroad property to library districts and school districts levying taxes for library purposes.

We note that House Bill 497, supra, requires the president or other authorized officer of a railroad company in its annual statement to the State Tax Commission to include a statement of

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length of road within school districts levying taxes for library purposes and library districts. Since we already have pointed out a street railroad company is subject to the provisions of House Bill No. 497, we are of the opinion that they would likewise be required in their annual report to indicate the length of line in a library district and in a school district levying taxes for library purposes which, of course, would be the basis of the apportionment as therein provided.

CONCLUSION

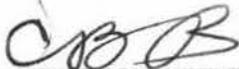
Therefore, it is the opinion of this office that the State Tax Commission is required under the provisions of Section 151.330 RSMo 1949 and House Bill No. 497 of the 66th General Assembly, to apportion the property of a street railroad company to library districts and school districts levying taxes for library purposes.

We are further of the opinion that the apportionment shall be made in the manner prescribed in House Bill 497 based upon the length of line in the districts as indicated by the annual statement returned by the street railroad company as required by said bill.

Respectfully submitted,

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Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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