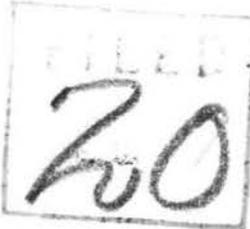


ASSESSORS:
MERCHANT'S TAX:

Under the provisions of Section 150.055, the county assessor is required annually, prior to the first Monday in May, to visit and inspect each place of business, warehouse, store or other establishment owned and operated by any merchant within the county for the purpose of acquiring information to be used as a basis for comparison with the statement returned by a merchant. Such information is to be returned by the assessor on forms prescribed by the county court to the county board of equalization.



August 10, 1955

Mr. Robert E. Crist
Prosecuting Attorney
Shelbina, Missouri

Dear Mr. Crist:

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

"Please advise as to what inspection and visit and report, if any, is required of the County Assessor by Section 150.055, M.R.S., 1949, as enacted in 1952.

"If an inspection and visit and report are required, what are the penalties in the event the county assessor refuses to make such inspection, visit and report."

Section 150.055, RSMo. Cum. Supp. 1953, provides as follows:

"The county assessor at least once each year prior to the first Monday in May shall visit and inspect each place of business, warehouse, store or other establishment owned and operated by any merchant within his county, for the purpose of obtaining such information as may be desirable or necessary to provide an accurate basis for comparison with the statement made by such merchant under section 150.050. A report of the information so obtained with respect to each merchant, in such form as may be prescribed by the county court, shall be made by the assessor to the county board of equalization."

Mr. Robert E. Crist

The terms of this section are clear and unequivocal. The assessor is required annually, prior to the first Monday in May, to visit and inspect each place of business, warehouse, store or other establishment owned and operated by any merchant within the county. The purpose of such visit and inspection is to acquire information to be used as a basis for comparison with the statement made by the merchant. Such information is to be returned on forms prescribed by the county court to the county board of equalization.

You further inquire what penalties may be imposed in the event that the assessor refuses to make such inspection, visit and report. In answer to this question I am enclosing a copy of an opinion to Clarence Evans, Chairman, Missouri State Tax Commission, under date of February 7, 1949, holding that if a county assessor fails to perform the duties enjoined upon him by law he may be removed from office by the county court or he may be sued upon his official bond by the presiding judge of the county court, by the prosecuting attorney, or by any individual acting in his private capacity or quo warranto proceedings may be brought against such negligent assessor to remove him from office.

Section 7, page 1784, Laws Mo. 1949, referred to in the enclosed opinion, is now found in substantially the same form in Section 53.190 RSMo 1949. Section 11234, RSMo. 1939, referred to in the enclosed opinion is now found as Section 139.300, RSMo. 1949.

CONCLUSION

It is the opinion of this office that under the provisions of Section 150.055, the county assessor is required annually, prior to the first Monday in May, to visit and inspect each place of business, warehouse, store, or other establishment owned and operated by any merchant within the county for the purpose of acquiring information to be used as a basis for comparison with the statement returned by a merchant. Such information is to be returned by the assessor on forms prescribed by the county court to the county board of equalization.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Donal D. Guffey.

Yours very truly,

John M. Dalton
Attorney General

Enc.(1)
Hon. Clarence Evans
Chairman, State Tax Comm.
DDG:mw