

TAXATION:

COUNTY COURTS:

COUNTY BOARDS OF EQUALIZATION:

The county court or county board of equalization cannot reassess real estate and tangible personal property or abate taxes arising by virtue of a regular and proper assessment where subsequent to the assessment date the property is totally or partially destroyed.



June 28, 1957

Honorable David L. Colson
Prosecuting Attorney
St. Francois County
Farmington, Missouri

Dear Mr. Colson:

Reference is made to your request for an official opinion which request reads as follows:

"Several requests have been made to the County Court, St. Francois County, Missouri, for tax relief for those persons whose property was destroyed in the tornado area. In particular, the Citizen's Committee of the Desloge-Cantwell Area are hoping that the taxes of those persons involved can be reduced for the year 1957.

It is my understanding from a reading of the statutes that their taxes are based upon the assessment made although their property is at a later time destroyed.

These people have been informed that there will be an adjustment in future years but that no adjustment can be made for the current year.

I would appreciate an early opinion from your office concerning the answer to this problem.

Section 137.075, RSMo 1949, provides that every person owning property on the first day of January shall be liable for taxes thereon during the same calendar year. Said Section more fully provides as follows:

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.

Honorable David L. Colson

It would seem to be clear from the above Section that the date for determining liability for taxes is fixed at January 1. In the case of Collector of Revenue vs. Ford Motor Company, 158 Fed. 2d 354, the court stated:

"The tax is not dependent on continual ownership but on ownership at the assessment date.

See also St. Louis Provident Association vs. Gruner, 355 Mo. 1030, 199 SW2d 409, and McLaren vs. Sheble, 45 Mo. 130. In the latter case the court held that the statutory lien for taxes relates back to and takes effect from the inception point of the assessment although the assessment may not be consummated until a later day or month in the year.

Section 137.080, RSMo 1949, fixes the inception point of the assessment as follows:

"Real estate shall be assessed at the assessment which shall commence on the first day of January, 1946, and shall be required to be assessed every year thereafter."

In the case of State ex rel vs. Edwards, 136 Mo. 360, the court stated at l.c. 368 and 369:

"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 completed, 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.

Under date of September 6, 1951, this office issued an official opinion to Clarence Evans, Chairman of Missouri State Tax Commission, holding that said Commission has no authority to abate taxes on property duly assessed but which was subsequent to that date partially or wholly destroyed. A copy of said opinion is enclosed herewith.

Honorable David L. Colson

We are of the opinion that the same result would be obtained in regard to the county court or the county board of equalization. We have examined in detail the statutes relating to the powers and authority of the county court and county board of equalization and are unable to find any authority for either of said bodies to reassess real estate or abate taxes arising by virtue of a regular and proper assessment where such property has been, subsequent to January 1, destroyed or partially destroyed by act of God.

CONCLUSION

Therefore, in the premises it is the opinion of this office that the county court or county board of equalization cannot reassess real estate and tangible personal property or abate taxes arising by virtue of a regular and proper assessment where subsequent to the assessment date, the property is totally or partially destroyed.

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

Very truly yours,

John M. Dalton
Attorney General

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