

TAXATION:
COUNTY BOARD OF
EQUALIZATION:

In performing its duties a county board of equalization cannot reduce the aggregate assessed valuation of property within the county below the aggregate assessed valuation thereof, as fixed and determined by the State Tax Commission for the same year.

May 8, 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:

"The County Superintendent of Schools of St. Francois County has requested me to write to you in regard to an Official Opinion on the following question:

"Legality of County Board of Equalization to reduce the total assessed valuation to a point below the level set by the State Board."

For a more complete understanding of the question presented, we wish to refer very briefly to the statutory scheme for the assessment of property for the purpose of taxation.

Section 137.115, RSMo Cum. Supp. 1955, provides that between the first day of January and the first day of June of each year the assessor shall proceed to assess all real and tangible personal property at its true value in money.

Section 137.080, RSMo 1949, provides that real property shall be assessed at the assessment which shall commence on the first day of January, and shall be required to be assessed every year. Thus it is seen that the assessor is required to make an annual assessment. Each assessment is the basis for that year's taxes, and is separate and apart from every other year's assessment. When the assessor has completed his labors he is required to make a return to the county court on or before the 31st day of May of each year a fair copy of the assessor's book, verified by his affidavit annexed thereto. Section 137.245, RSMo 1949.

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Immediately thereafter, and prior to the 20th day of June, the clerk of the county court is required to make an abstract of the assessment book, showing the aggregate footings of the different classes, so as to set forth the aggregate amount of the different kinds of real and tangible personal property and the valuation thereof and forward the same to the State Tax Commission. Section 137.245, RSMo 1949.

Section 138.010, RSMo 1949, provides that the county board of equalization shall meet on the second Monday in July of each year. Said board is charged with the duty of equalizing the valuation and assessments upon all taxable real and tangible personal property within the county, so that all such property shall be entered on the tax book at its true value. Sections 139.030 and 138.040, RSMo 1949.

Section 138.390, RSMo 1949, provides that the State Tax Commission shall meet between the dates of June 20th and the second Monday in July of each year, for the purpose of adjusting and equalizing the valuation of real and tangible personal property among the several counties in the state.

Thereafter, under the provisions of Section 138.400, RSMo 1949, it is the duty of the secretary of said Commission to transmit to the county clerk on or before the second Monday in July a report showing the per cent added to or deducted from the valuation of the property of the several counties, which report shall include the per cent added to or deducted from the several classes of real and tangible personal property and the value of the real and tangible personal property of each county as equalized by said Commission. The county clerk is required to furnish a copy of said report to the county board of equalization.

The functions of the county board of equalization and the State Tax Commission are wholly separate and distinct. *First Trust Co. v. Wells*, 23 SW2d 109. The county board of equalization is charged with the duty of intracounty equalization, whereas it is the duty of the State Tax Commission to effect intercounty equalization. Each is required to perform its duties annually.

Turning now to the question at hand, Section 138.030, RSMo 1949, provides that the county board of equalization in performing its duties shall not reduce the valuation of the real or tangible personal property of the county below the value thereof as fixed by the State Tax Commission. Said section more fully provides in part as follows:

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"2. Said board shall have the power and the duty to hear complaints and to equalize the valuation and assessments upon all taxable real and tangible personal property within the county so that all such property shall be entered on the tax book at its true value; provided, that said board shall not reduce the valuation of the real or tangible personal property of the county below the value thereof as fixed by the state tax commission."

Referring to this section, the Supreme Court of Missouri, in the case of State v. Bethards, 9 SW2d 603, stated:

"That section means, if anything, that the state board of equalization fixes values as well as the assessor or the county board. Therefore the county board of equalization of Shelby county had no authority to reduce the valuation fixed by the state board. When it attempted to equalize the values in accordance with the prior valuations fixed by the assessor, which valuations had been annulled by the order of the state board of equalization, the proceeding was a nullity. The entire proceeding of the county board in the matter was of no effect. Mercantile Trust Co. v. Schramm, 269 Mo. 489, 190 S.W. 886."

See also the cases of State v. Dirckx, 11 SW2d 39, and First Trust Co. v. Wells, 23 SW2d 108.

CONCLUSION

Therefore, in the premises, it is the opinion of this office that in performing its duties a county board of equalization cannot reduce the aggregate assessed valuation of property within the county below the aggregate assessed valuation thereof, as fixed and determined by the State Tax Commission for the same year.

Honorable David L. Colson

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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