

TAXATION:
STATE TAX COMMISSION:
ASSESSMENT:
PIPELINE COMPANIES:
TELEPHONE COMPANIES:

The exchange equipment of telephone companies and the pumping equipment of pipeline companies, together with the buildings housing the same and the land upon which the same are located, should be assessed by the State Tax Commission.

March 26, 1958



Honorable James M. Robertson
Chairman
State Tax Commission
Jefferson City, Missouri

Dear Mr. Robertson:

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

"A practice has grown up over the years whereby the various local assessors have been assessing the land and buildings housing the pumping stations of pipe line companies and the exchange equipment of telephone companies. The equipment contained in such installations, pumps, switchboards, etc., have been assessed by the State Tax Commission on the theory that this equipment is part of the so-called 'distributable property' of such companies.

"In examining the statutes, it would appear that all of the property comprising such installations, including land and buildings, should be assessed by the Tax Commission because such property is an integral part of the distribution system of these companies.

"Request is made for an opinion as to whether or not all of the above mentioned property should be assessed by the State Tax Commission."

You inquire as to whether the land and buildings housing the pumping stations of pipeline companies and the exchange equipment of telephone companies should be assessed by the State Tax Commission or assessed locally.

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Section 138.420, RSMo 1949, provides for the original assessment of certain property of public utility companies by the State Tax Commission in the following language:

"1. The commission shall have the exclusive power of original assessment of railroads, railroad cars, rolling stock, street railroads, bridges, telegraph, telephone, express companies, and other similar public utility corporations, companies and firms."

Section 153.030, RSMo 1949, provides that:

" * * * all property, real and tangible personal, owned by telegraph, telephone, electric power and light companies, electric transmission lines, pipe line companies and express companies shall be subject to taxation for state, county, municipal and other local purposes to the same extent as the property of private persons."

Paragraphs 2 and 3 of said section more fully provide as follows:

"2. And taxes levied thereon shall be levied and collected in the manner as is now or may hereafter be provided by law for the taxation of railroad property in this state, and county courts, county boards of equalization and the state tax commission are hereby required to perform the same duties and are given the same powers in assessing, equalizing and adjusting the taxes on the property set forth in this section as the said courts and boards of equalization and state tax commission have or may hereafter be empowered with, in assessing, equalizing, and adjusting the taxes on railroad property; and the president or other authorized officer of any such bridge, telegraph, telephone, electric power and light companies, electric transmission lines, pipe line companies, or express company or the owner of any such toll bridge, is hereby required to render statements of the property of such bridge, telegraph,

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telephone, electric power and light companies, electric transmission lines, pipe line companies, or express companies in like manner as the president, or other authorized officer of the railroad company is now or may hereafter be required to render for the taxation of railroad property.

"3. On or before the first day of May in the year 1946 and each year thereafter the president or other authorized officer of each such company shall furnish the state tax commission a statement, duly subscribed and sworn to by said president or other authorized officer, showing the full amount of all real and tangible personal property owned by each such company on January first of the year in which the report is due."

The manner of levying and collecting taxes on railroad property is contained in Chapter 151, V.A.M.S.

The Supreme Court of Missouri has held in the case of State ex rel. v. Baker, 9 S.W.2d 589, 320 Mo. 1146, that the provisions of Sections 138.420 and 153.030, read and construed together, confer upon the State Tax Commission the power of original assessment over only public utilities and that any attempt to confer upon said Commission the power of original assessment over local property devoted to private use would be violative of the Constitution. In view of such fact and in the absence of any information to the contrary, we will, for the purpose of this opinion, assume that the companies to which you refer are "public utilities."

What property of pipeline and telephone companies is subject to assessment by the State Tax Commission and what property of said companies is assessable by the local assessors must be determined from the law relating to the assessment of railroad property, in view of the fact as previously noted that the taxes levied and collected upon such property shall be in the manner as provided by law for the taxation of railroad property (Section 153.030, supra).

Section 151.010 provides that all real property, tangible personal property and intangible personal property owned, hired or leased by any railroad company or corporation in this state shall be subject to taxation. Section 151.020, V.A.M.S.,

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specifies what property shall be reported to the State Tax Commission. Said section provides, in part, as follows:

"1. On or before the first day of May in each year, the president or any authorized officer of every railroad company whose road is so far completed and in operation as to run locomotive engines, with freight or passenger cars thereon, shall furnish to the state tax commission a statement, duly subscribed and sworn to by the president or other authorized officer before some officer authorized to administer oaths, setting out in detail the total length of their road so far as completed, including branch or leased roads, the entire length in this state, and the length of double or sidetracks, with depots, water tanks and turntables, the length of such road, double or sidetracks in each county, municipal township, city or incorporated town, special road district, library district, school districts which levy taxes for library purposes pursuant to section 137.030, RSMo, public water supply, fire protection and sewer districts or subdivisions except other school districts, through or in which it is located in this state; the total number of engines and cars of every kind and description, including all palace or sleeping cars, passenger and freight cars, and all other moveable property owned, used or leased by them on the first day of January in each year, and the actual cash value thereof."

Section 151.060, RSMo 1949, provides that the State Tax Commission shall assess, adjust and equalize the aggregate valuation of the property of railroad companies in this state as specified in Section 151.020, supra.

Section 151.100, RSMo 1949, provides for the assessment of other property of railroad companies as follows:

"All real property, or tangible personal property, including lands, machine and workshops, roundhouses, warehouses and other buildings, goods, chattels and office furniture of whatever kind, and not herein specified, owned or controlled by any railroad company

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or corporation in this state, shall be assessed by the proper assessors in the several counties, cities, incorporated towns and villages wherein such property is located, under the general revenue laws of the state and the municipal laws regulating the assessments of other local property in such counties, cities, incorporated towns and villages, respectively, but the taxes on the property so assessed shall be levied and collected according to the provisions of this chapter."

Referring to these two sections, the Supreme Court, in the case of State ex rel. v. Metropolitan State Railroad Co., 161 Mo. 188, stated that for the purpose of assessment the General Assembly has divided railroad property into two classes, one of which could be designated "local" and the other "distributable", the class denoted "local" being that specified in Section 151.100, and the class denoted "distributable" being that specified in Section 151.020. The so-called "distributable" property is assessed as an entirety by the state agency and the so-called "local" property is assessed by the local authorities as other local property is assessed. The Supreme Court of Missouri, in the case of State ex rel. v. C., R.I. & P. Ry. Co., 162 Mo. 391, undertook to state the theory of the system of taxing railroads as follows at l.c. 394:

"The theory of the system of taxing railroads, as contained in our statute, seems to be that the railroad with all the necessary appurtenances to its efficient equipment as a means of traffic, is to be taken as a whole and assessed for taxation by the State Board of Equalization. That does not, however, include property that is used by a railroad corporation as a collateral facility to its business, such as workshops, etc., nor property held for purposes other than those of a carrier, all of which is subject to taxation by the local authorities."

See also State ex rel. v. Baker, 293 S.W. 399, 403.

With the foregoing rule in mind, we are of the opinion that the exchange equipment of telephone companies and the pumping equipment of pipeline companies, together with the buildings housing the same and the land upon which the same are located, would

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properly be classified as "distributable" property and assessable by the State Tax Commission. The facilities referred to are, we believe, under the rule, necessary appurtenances to the transportation systems of these companies. They are not collateral facilities since without them the system could not operate for its intended purpose.

When we refer to the land upon which the facility is located and the buildings housing the same, we mean only such land and buildings as are reasonably necessary and appurtenant to the efficient operation of the facility and do not mean to hold or infer, for example, that if a utility has exchange equipment located on part of a floor of a multistory office building that the whole of the building and the land upon which the same is situated would be assessable as distributable property. What would be reasonably necessary and appurtenant to the efficient operation of the facility would be a question of fact to be determined in each particular case.

CONCLUSION

Therefore, in the premises, it is the opinion of this office that the exchange equipment of telephone companies and the pumping equipment of pipeline companies, together with the buildings housing the same and the land upon which the same are located, should be assessed by the State Tax Commission.

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

Very truly yours,

John M. Dalton
Attorney General

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