

ABTRACTOR'S BOOKS  
SUBJECT TO ASSESSMENT  
AND TAXATION:

An abstractor's books and/or records are tangible personal property and are subject to assessment and taxation.

July 15, 1959



Honorable Jay White  
Prosecuting Attorney  
Phelps County  
Rolla, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"The County Court and Assessor has requested for a written opinion as follows.

"Is an abstractor's records, under the law, considered tangible personal property, and thus subject to assessment and taxation as other tangible personal property? These records are insurable and have some considerable market value. I would appreciate your written opinion on this question."

By the term "abstractor's records" you no doubt mean what is more generally called the "abstractor's books."

It is the opinion of this department that such books are tangible personal property and so are subject to assessment and taxation as is other tangible personal property. What is called the "abstract business" is a recognized, highly necessary, and lucrative business operation. And without the "records" or "books" to which you refer, it would be virtually impossible for an abstractor to conduct his business. Furthermore, as you state, an abstractor's books have a very considerable monetary value for which there is usually a ready market.

Section 137.120, RSMo 1949, sets forth what an assessor's property list shall contain. There is no mention therein of books of any kind. However, we note numbered paragraph six of said section which, after enumerating a number of items which should be on the assessor's list, concludes by stating "and every other species of tangible personal property not exempt by law from taxation."

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We also direct attention to numbered paragraph three of Section 137.010, RSMo 1949, which defines tangible personal property. This paragraph reads:

"'Tangible personal property' includes every tangible thing being the subject of ownership or part ownership whether animate or inanimate, other than money, and not forming part or parcel of real property as herein defined."

We may state that nowhere in the law do we find books of any kind nor abstractor's books specifically exempted. And in this regard we note the case of State vs. Gehner, 294 SW 1017, which at l.c. 1018 (1) states: "The policy of our law, constitutional and statutory, is that no property than that enumerated shall be exempt from taxation."

We also note the recent case of Zeitinger vs. Mitchell, 244 SW 2d 91. This case was one concerning the discovery and recovery of assets of a decedent's estate, but it is pertinent to the issue here, in that it gives us a definition of "property" which includes books. At l.c. 95 (1) the court states in part:

"It is to be noted that Section 462.400 in terms provides that if any person conceals, embezzles or wrongfully withholds, 'goods, chattels, money, books, papers or evidences of debt' of the deceased, the affidavit therein provided for may be filed. The fourth of these sections, 462.430, collects the 'goods, chattels, money, books, papers, or evidences of debt', separately named in Section 462.400, into the word 'property', and provides that after judgment, 'the court shall compel the delivery of the property detained' (if the court needs to do so) by attachment for contempt and commitment to jail until the order of the court is complied with."

It would seem to be clear that the books of an abstractor are tangible personal property of very definite value; that they are not exempted by law from assessment and taxation, and are therefore subject to such assessment and taxation.

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CONCLUSION

It is the opinion of this department that an abstractor's books and/or records are tangible personal property and are subject to assessment and taxation.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Yours very truly,

John M. Dalton  
Attorney General

HPW:bw:mjb