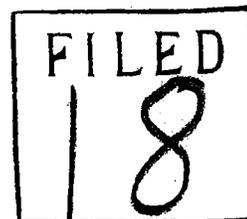


- RAILROADS: (1) Railroad property is to be assessed only by the
TAXES: taxing units where the property is located.
(2) Only the taxing units for which railroad taxes
were levied and collected are entitled to the
taxes collected.

April 26, 1961.



Honorable J. W. Colley
Prosecuting Attorney
Dade County
Greenfield, Missouri

Dear Mr. Colley:

In your letter of February 16, 1961, you submit the following question:

"We have the township organization in Dade County. In Ernest Township there is a special road district known as The Shannon Special Road District. This special road district comprises about 50% of the territory of Ernest Township. The Dade County Treasurer has mailed the Ernest Township board a check covering a proportionate part of the railroad taxes collected by Dade County. Actually there is no railroad tract through either Ernest Township or the Shannon Special Road District. The question I need answered, is whether or not the Shannon Special Road District is entitled to part of the railroad taxes?"

We have been informed by the State Tax Commission that the Commission has apportioned no distributable railroad property in Dade County to Ernest Township or to Shannon Special Road District and that no railroad property has been returned by local assessors from Ernest Township or Shannon Special Road District.

Chapter 151, RSMo 1959, provides for the taxation of railroads in the state. It is the exclusive method.

Section 151.020, RSMo 1959, requires a railroad company on or before May the first of each year to submit a statement under oath

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to the State Tax Commission listing the total length of their road, including leased property, the entire length in the state and the length of such roads in each county, municipal township, city, incorporated town, special road district, library district, public water supply district, fire district or sewer districts in which tracks are located in the State, together with the rolling stock, depots, water tanks and turntables, and the actual cash value thereof.

Section 151.030, RSMo 1959, provides for a duplicate statement required in Section 151.020 also be filed with the county clerk.

Section 151.060, RSMo 1959, provides for the State Tax Commission to assess, adjust and equalize the aggregate valuation of the property.

Section 151.080, RSMo 1959, provides the State Tax Commission shall apportion the aggregate value of all such property of the railroad to each county, municipal township, city or town, special road districts, and other taxing units according to the ratio which the number of miles of such road in such taxing unit bears to the whole length of such road in this State.

Section 151.090, RSMo 1959, provides for the State Tax Commission to certify to its valuation. Said section provides in part:

"The certificate shall set forth the entire length of the railroad, including sidetracks, in the state, and the valuation thereof per mile; the total value of the rolling stock of the railroad; the total length of the roadbed, including 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; also the total value of roadbed and sidetracks and rolling stock as assessed, adjusted, equalized, and apportioned to such 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 therein by the Commission."

Section 151.100 RSMo 1959, provides for the assessment of property belonging to the railroad which is not assessed by the State Tax Commission. This assessment is to be made by the proper

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assessor of the county, city town or village where the property is located, but the taxes shall be levied and collected as other railroad taxes.

Section 151.120, RSMo 1959, provides in part that every city, incorporated town or village, special road district, library district, public water supply district and other taxing units wherein any railroad property is located, on or before the 10th day of August of each year to certify to the county court a statement of the assessments made under Section 151.100, and the rate per cent levied by the city, town, village, special road district, and other taxing unit. (Section 137.600 regarding Township Road Taxes).

Section 151.140 RSMo 1959, provides in part that -- the county court, upon receipt from the State Tax Commission, of the returns of the county assessor and the certificates of cities, towns, villages, special road districts, library districts, and other taxing units, therein named, shall ascertain and levy the taxes for state, county, municipal township, city, town and village, special road, library, public water supply and other taxing units therein named, on the railroad and the property thereof in such county, municipal township, city, town or village, special road district, and other taxing units therein named, at the same rate as may be levied on other property and shall make an entry thereof on the records of the court.

Section 151.170, RSMo 1959, provides:

"Within ten days after the county court has levied the taxes on railroad property, as prescribed in sections 151.140 and 151.150, the county clerk of the county shall extend the same on a separate tax book, to be known as 'the railroad tax book', in which he shall place, first, the total valuation of the roadbed and rolling stock of each railroad company, as assessed, equalized and apportioned to the county by the state tax commission, with the amount of state, county, municipal township, city, incorporated town and village, school, special road, library, public water supply, fire protection and sewer purposes and taxes for the erection of public buildings and for other purposes, levied thereon by the county court, stated separately; second, a description of each tract of land, town lot, or other real estate, including the machine and workshops and other buildings in numerical order, and tangible personal property, as returned by local

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assessors, and the amount of state, county, municipal, city, town or village school taxes, and taxes for the erection of public buildings, and for other purposes, levied thereon, stating each separately, and crediting school taxes and taxes for the erection of public buildings, and for other purposes, to the proper district or municipality.

Section 151.180, RSMo 1959, provides for the county collector to collect and disburse the taxes to each taxing unit.

Section 151.190, RSMo 1959, provides:

"It shall be the duty of the county clerk as soon as said tax book is completed, to make out and certify to the secretary of the proper railroad company, or the officer making the return thereof, a statement of taxes levied on the property of such railroad company in his county, which statement shall contain.

(1) The total valuation of roadbed and rolling stock as the same was assessed, equalized and apportioned to such county, and the amount of state, county, city, town or village, municipal township, special road districts, library districts, school districts which levy taxes for library purposes pursuant to section 137.030 RSMo., public water supply, fire protection and sewer districts or subdivisions and school taxes and taxes for the erection of public buildings, and for other purposes levied thereon;

(2) The total valuation, as shown by the returns of the local assessors, of all property in such county belonging to such railroad company, whether real property, or tangible personal property, including lands, warehouses, shops and other buildings, and the amount of state, county, city, town, village, special road districts, library districts, school districts which levy taxes for library purposes pursuant to section 137.030, RSMo. public water supply, fire protection and sewer districts for subdivisions; school taxes and taxes for the erection of public buildings and for other purposes levied thereon."

It is apparent from reading Chapter 151, RSMo 1959, that the only method for taxing railroads is as provided in said chapter. That the railroad property is to be assessed and taxes levied on

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the property in behalf of the taxing units mentioned in Sections 151.020 and 151.100 only in such taxing units through which the road passes or its property located. It is equally clear that under Section 151.140, supra, that it is the duty of the county court to ascertain and levy taxes due each taxing unit separately as shown by the report filed by the state tax commission and the certificate filed by the cities, towns, villages, special road districts and other taxing units as provided therein. Under Section 151.170, supra, it is the duty of the county clerk after the county court has levied the taxes, to enter the taxes in a separate tax book known as "the railroad tax book", in which he shall place, first, the total valuation of the roadbed and rolling stock as assessed, equalized and apportioned to the county by the state tax commission, with the amount of state, county, municipal township, city, town or village, school, special road and the other taxing units mentioned in said statute, as levied thereon by the county court, with the amount due each stated separately. The other property belonging to the railroad not assessed by the state tax commission and which is assessed as provided in Section 151.100, supra, is likewise to be entered in "the railroad tax books, separately as to each taxing unit as assessed with the amount due each, which book is then delivered to the county collector. Under Section 151.180, supra, it is the duty of the county collector to collect the total amount of taxes in each of the several funds as shown on the tax book delivered to him by the county clerk.

CONCLUSION

In answer to the question you submit it is our opinion that a township or special road district in which there are no railroad tracks and in which there is no property of a railroad cannot levy taxes against railroad property, and no taxes can be collected from the railroad for such township or special road district. If no taxes were levied or collected for a municipal township or special road district, then said township and road district would not be entitled to share in the taxes collected for the other taxing units.

This opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

MM:BY