

Opinion No. 153 answered by letter
(Nessenfeld)

May 3, 1963



Honorable Don Owens
Senator, 20th District
374 South Bernhardt
Gerald, Missouri

Dear Senator Owens:

We have your request for our opinion on the following questions which were submitted to you by Honorable Clem A. Buerges, Presiding Judge of the St. Charles County Court:

"St. Charles County, Missouri has in process a re-evaluation program and is endeavoring to place all new valuations on the 1964 tax books and it is anticipated a large amount of properties (6,000 to 8,000 parcels) in this County will be subject to increase in valuation. Therefore, this Court would like an opinion on the questions as set out:

"1. Can we notify by Certified Mail those taxpayers of the increased 1964 assessment on their properties beginning in late August, 1963 and have a hearing by a Board of Equalization for those aggrieved, during this same time (Aug. 1963 to Dec. 1963) to enable all increased property owners an opportunity to be heard and help collate this mass of paper work to become a part of the 1964 tax book record.

(a) Hearing would begin after the Board of Equalization and Appeals for the current 1963 year is concluded.

"2. Assuming that the above is placed into process and that each increased property owner is notified by Certified Mail and the aggrieved taxpayer does not recognize this notice of his scheduled hearing, will it be necessary to again notify this taxpayer in July 1964 at the regular Board of Equalization before the tax books are concluded for that current year."

As we understand the questions, they relate solely to proposed 1964 assessments, and that no increases are intended to be made with respect to 1963 valuations as the result of the re-evaluation program.

By way of preliminary observation, we note that the duty of determining the value of property for the purposes of taxation is initially that of the assessor. Sections 137.115 and 137.180, RSMo. We assume that the re-evaluation program to which you refer is one which is being made by experts pursuant to contract with the county court for the purpose of furnishing information to the county assessor in securing a full and accurate assessment of all property in the county liable to taxation. Under date of October 4, 1961, this office issued an opinion to Honorable Donald E. Dalton, Prosecuting Attorney of St. Charles County, holding that such procedure was valid in St. Charles County because it has a population in excess of 40,000 inhabitants. The information resulting from the expert re-evaluation is not binding either on the assessor or the Board of Equalization but may be used by them in performing their duties.

Under the law, each year's assessment of property constitutes an independent proceeding, and each year's tax is a separate transaction. To this effect is *Cupples-Hesse Corp. v. Bannister*, 322 SW2d 817. The statutory scheme of assessment in Chapter 137 provides that the assessor shall first fix a value for the property as of January 1 of the tax year. Sections 137.080, 137.115, and 137.180, RSMo. This valuation is reviewable by the county board of equalization. Sections 137.275, 138.050, and 138.060, RSMo. However, the board is authorized to act only with respect to

assessments and valuations for the current year. It has no authority to make any determination respecting the value to be assigned to any property as of January 1 of the following year. This is particularly true in view of the fact that the assessor must first determine the value of the property, and he cannot do so with respect to 1964 prior to the commencement of such year.

We see no reason why an unofficial notice of the result of the re-evaluation may not be given to the property owners in order to guide them in making out their assessment lists for 1964 taxes. If the assessor, on the basis of the expert re-evaluation or otherwise, determines that the valuation as returned by the owner in 1964 should be increased, then he is required to give a notice of such increase under the provisions of Section 137.180. This is equally true as to all subsequent years. Each annual assessment stands on its own footing, and any increase in valuation, as that term is used in Section 137.180, refers to the value placed upon the property by the owner in his list which he is required to return to the assessor. It follows that if a property owner in 1964 lists his property for taxation at a valuation less than that which the assessor, making use of the information acquired from the re-evaluation program, determines is proper, then a notice to the property owner is required without regard to what was done the preceding year. So, too, if the county board of equalization which meets in 1964 determines to increase the valuation, a similar notice is required.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JN: sr

cc - Hon. Clem A. Buerges
Presiding Judge
St. Charles County Court
St. Charles, Missouri