

June 19, 1963

FILED
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State Tax Commission of Missouri
Jefferson Building
Jefferson City, Missouri

Gentlemen:

You have requested the opinion of this office as follows:

"In view of the Missouri Supreme Court decision of April 8, 1963 in the case of American Air Lines, Inc. and Delta Air Lines, Inc. vs. City of St. Louis, et al, this Commission requests an official opinion from your Department on whether or not an apportionment of valuation should be made by this Commission under Section 155.050 RSMo. 1959 to any municipality in this State which owns and operates an airport outside its corporate limits."

The decision to which you refer was an action by two airline companies seeking, together with other relief, a declaratory judgment respecting the validity of the following proviso which is "appended to and is a part of Section 155.050," RSMo 1959:

"provided that, when any municipality in this state owns and operates an airport outside its corporate limits, the valuation determined hereunder shall also be apportioned to said municipality."

In that case, our Supreme Court held that a municipality (the City of St. Louis) could not impose municipal taxes on the aircraft of the airline companies which had no tax

situs in the City of St. Louis but which had arrivals and departures at a municipally owned and operated airport located outside its corporate limits. The decision was premised on the finding that such municipality afforded no governmental benefits or protection to such airlines or their aircraft, and for such reason the city could not validly impose municipal taxes on the aircraft. In the case referred to, the Court reached the conclusion "that the proviso, and City's levies pursuant to the proviso, are invalid and void as violative of due process clauses of state and federal constitution."

In our opinion, the effect of the decision in the above case holding the proviso invalid is not limited to the two airline companies involved in that suit nor to the tax years there in question. The above quoted proviso is invalid and void, and for such reason the State Tax Commission, in making its apportionment under Section 155.050, RSMo 1959, should not apportion to a municipality which owns and operates an airport outside its corporate limits any part of the valuation of the aircraft which are operated at said airport.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JN:gm