OPINION NO. 290 (1965)
Answered by Letter
(Randolph)

NO. 23 (1966)

June 6, 1966

FILED
23

Honorable Arthur B. Cohn
Prosecuting Attorney of Pulaski County
Waynesville, Missouri

Dear Mr. Cohn:

This letter is in answer to your request for an opinion of this office on the question of whether the Board of Equalization of Pulaski County has the power to make a blanket raise of the assessments of the inventories of all merchants of Pulaski County.

Sections 150.010 to 150.290 RSMo, govern merchants' taxes. Section 150.060 RSMo reads:

> "1. The assessor or the county clerk shall return the merchants' tax book and the assessor shall make the reports required by section 150.055 to the county board of equalization on the second Monday, in July in each year, which said board is hereby required to meet at the office of the clerk of the county court on the second Monday in July in each and every year, for the purpose of equalizing the valuation of merchants' statements, and to that end shall carefully compare the statements made by such merchants with the reports made by the assessor under section 150.055, and shall have the same powers and shall proceed in the same manner as provided by law, for the equalization of real and personal property, so far as is consistent with the provisions of sections 150.010 to 150.290; but after the board shall have raised the valuation

> of any statement, it shall give notice of the fact to the person, corporation or firm whose statement shall have been raised in amount, by personal notice through the mail, specifying the amount of such raise, and that the said board will meet on the second Monday in August to hear reasons, if any may be given, why such increase should not be made.
>
> "2. The members of the county board of equalization shall receive the same per diem for services under this section as provided by law for services in equalizing real and personal property, and the sum of the valuation of the statements as equalized by the county board of equalization shall be included in and made a part of the total valuation of property taxable for all purposes."

Section 150.060 thus provides that in equalizing merchants' taxes the county board of equalization "shall proceed in the same manner as required by law, for the equalization of real and personal property." The manner of equalizing real and personal property here pertinent is set out in Sections 138.030 and 138.050 RSMo.

Section 138.030 RSMo reads:

> "1. The members of the county board of equalization shall each take an oath, to be administered by the clerk, to fairly and impartially equalize the valuation of all real estate and tangible personal property taxable by the county.
>
> "2. The board shall hear complaints and equalize the valuation and assessments upon all real and tangible personal property taxable by the county so that all the property shall be entered on the tax book at its true value. The board shall not reduce the valuation of the real or tangible personal property below the value thereof as fixed by the state tax commission."

Section 138.050 RSMo reads:

> "The following rules shall be observed by county boards of equalization:
>
> "1. They shall raise the valuation of all tracts or parcels of land and all tangible personal property as in their opinion have been returned below their real value; but, after the board has raised the valuation of such property, it shall give notice of the fact, specifying the property and the amount raised, to the persons owning or controlling the same, by personal notice or through the mail if address is known, or if address is unknown, by notice in one issue of any newspaper published within the county at least once a week, and that said board shall meet on the second Monday in August, to hear reasons, if any be given, why such increase should not be made; the board shall meet on the second Monday in August in each year to hear any person relating to any such increase in valuation;
>
> "2. They shall reduce the valuation of such tracts or parcels of land or any tangible personal property which, in their opinion, has been returned above its true value as compared with the average valuation of all the real and tangible personal property of the county."

The following language in State v. Christian County Bank, Mo., 136 S.W. 335, l.c. 336, is applicable here.

> "Under the foregoing provisions of the statutes, it is made the duty of the board of equalization, not only to equalize the valuation and assessment of all the property in the county, but to equalize it 'so that each tract of

> land shall be entered on the tax book at its true value,' and it shall 'raise the valuation of all such tracts or parcels of land and any personal property, such as in their opinion have been returned below their real value, according to the rule prescribed by this chapter for such valuation.' The only limitation upon the power of the board in thus fixing the value of the taxable property is that it 'shall not reduce the valuation of the real or personal property of the county below the value thereof as fixed by the said state board of equalization.'[Under present law the state tax commission]."

The cited case held that an order of a county board of equalization was valid, which order was as follows:

> "Ordered by the board that real and personal property, situate in Christian County be raised 10 per cent."

The Court reasoned that it was within the power of the Board to raise the valuation of property of the county upon a percentage basis, and if the board found no inequality in the assessment, but found that both real and personal property had been assessed 10 per cent below its real value, no valid reason existed to prevent the board from increasing the value by the order. See also May Department Stores Co. v. State Tax Commission, Mo., 308 S.W.2d 748.

Accordingly, it is our view that the board of equalization of Pulaski County may, by a blanket order, increase the assessment of the inventory of all the merchants of the county so long as the quoted provisions of Section 138.050 RSMo 1959, are complied with, including the notice provisions thereof.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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