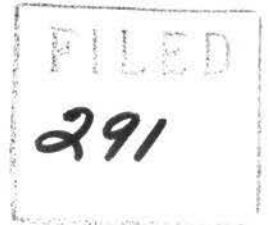


TAXATION: Municipalities and school  
ASSESSMENTS: districts lying within a  
TAXATION (SCHOOLS): county in which personal  
TAXATION (CITIES, TOWNS & VILLAGES): property assessment in-  
creased over ten percent  
from the previous year must revise and lower their tax levies  
where said levies were determined and certified to the county  
clerk prior to the increased assessment in accordance with the  
provisions of Section 137.073, RSMo 1969, even though the prop-  
erty assessment in such particular districts or municipalities  
did not increase by ten percent.

OPINION NO. 291

September 18, 1973

Honorable Charles LeCompte  
Prosecuting Attorney  
Greene County, Courthouse  
Springfield, Missouri 65802 .



Dear Mr. LeCompte:

This is in response to your request for an opinion as to whether or not school districts or municipalities in Greene County must lower their rate of levy because of an increase in assessment of personal property in Greene County of over ten percent, even though the assessed valuation of personal property lying within such school districts or municipalities did not increase over ten percent.

Section 137.073, RSMo 1969, provides as follows:

"Whenever the assessed valuation of real or personal property within the county has been increased by ten percent or more over the prior year's valuation, either by an order of the state tax commission or by other action, and such increase is made after the rate of levy has been determined and levied by the county court, city council, school board, township board or other bodies legally authorized to make levies, and certified to the county clerk, then such taxing authorities shall immediately revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially

Honorable Charles LeCompte

the same amount of taxes as previously estimated to be produced by the original levy. Where the taxing authority is a school district it shall only be required hereby to revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy, plus such additional amounts as may be necessary approximately to offset said district's reduction in the apportionment of state school moneys due to its increased valuation. The lower rate of levy shall then be recertified to the county clerk and extended upon the tax books for the current year. The term 'rate of levy' as used herein shall include not only those rates the taxing authorities shall be authorized to levy without a vote, but also those rates which have been or may be authorized by elections for additional or special purposes. No levy for public schools or libraries shall be reduced below a point that would entitle them to participate in state funds."

It is clear from the language of the statute that no exceptions are made for any taxing authority within the county in which property values did not increase by ten percent. It is a well-settled rule of law that a taxing statute must be strictly construed in favor of the taxpayer and against the taxing authority. See, Missouri Pacific Railroad Company v. Kuehle, 482 S.W.2d 505, 509 (Mo. 1972). Therefore, whenever the assessed valuation of real or personal property in the county has been increased by ten percent or more over the previous year's valuation, and such increase is made after the rate of levy has been determined and levied by a taxing authority within the county and certified to the county clerk, such taxing authority must revise and lower its rate of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy. With respect to school districts, it is only necessary to lower the rate of levy to the extent necessary to produce from all taxable property within the district substantially the same amount of taxes as previously estimated to be produced by the original levy plus such additional amounts as may be necessary to approximately offset said district's reduction in the apportionment of state school moneys due to its increased valuation, if any. Also, no public school can be required to reduce its levy below a point that would entitle it to participate in state funds.

Honorable Charles LeCompte

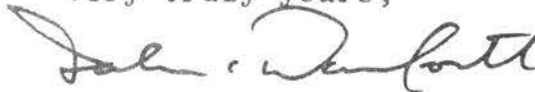
Enclosed for your information are Opinion No. 89 issued July 16, 1970, to Honorable Robert S. Drake, Jr., and Opinion No. 75 issued August 29, 1955, to Honorable John M. Rice, which also deal with Section 137.073. These opinions held that a taxing authority extending into two counties must redetermine its rate of levy when only one of the two counties increased in assessed valuation by more than ten percent. Also, enclosed is Opinion No. 49 issued March 8, 1956, to Honorable J. Marcus Kirtley, which holds that Section 137.073 is brought into operation only where the tax rate has been set prior to the increase of ten percent or more in the assessed valuation of property located in the county.

CONCLUSION

It is the opinion of this office that municipalities and school districts lying within a county in which personal property assessment increased over ten percent from the previous year must revise and lower their tax levies where said levies were determined and certified to the county clerk prior to the increased assessment in accordance with the provisions of Section 137.073, RSMo 1969, even though the property assessment in such particular districts or municipalities did not increase by ten percent.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard L. Wieler.

Very truly yours,



JOHN C. DANFORTH  
Attorney General

Enclosures: Op. No. 89  
7-16-70, Drake  
  
Op. No. 75,  
8-29-55, Rice  
  
Op. No. 49  
3-8-56, Kirtley