

ASSESSORS: Compensation for taking list and entering in assessment book of stock in banks

Oct 6, 1937

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Hon. Charles D. Brandon
Prosecuting Attorney, Daviess County
Gallatin, Missouri

Dear Sir:

This will acknowledge receipt of your letter of recent date in which you request an opinion as follows:

"A controversy has arisen in this county with reference to the charges which an assessor is entitled to make in connection with the assessment on parties holding bank stock. The statute seems to require a list of all stockholders, to be prepared by the assessor. Some of these stockholders, of course, are assessed on other property and this bank stock is included with the other property, but some of the stockholders occasionally are not assessed in this county on other property.

Is there only one charge for the whole list of stockholders - or can the assessor charge for each name on the list, except those also assessed on other property?

Will you please advise just what charges the assessors are entitled to make under the circumstances."

Section 9765, R.S. Missouri, 1929, was repealed by the legislature in 1931 and a new section enacted. The new section, Laws of 1931, page 357 is, in part, as follows:

"The property of manufacturing companies and other corporations named in Article 7, Chapter 32, insurance companies organized under the laws of this state and all other corporations, the taxation of which is not otherwise provided by law, shall be assessed and taxed as such companies or corporations in their corporate names. Persons owning shares of stock in banks, or in joint stock institutions or associations doing a banking business, shall not be required to deliver to the assessor a list thereof, but the president or other chief officer of such corporation, institution or association shall, under oath, deliver to the assessor a list of all shares of stock held therein, and the face value thereof, the value of all real estate, if any, represented by such shares of stock, * * * * * and such shares * * * * * so listed to the assessor shall be valued and assessed as other property at their true value in money, less the value of real estate, if any, represented by such shares of stock, * * *."

This section requires that banking corporations prepare the tax list containing the stock in said bank, and not the owners of said stock.

Section 9766, R.S. Missouri, 1929, is in part as follows:

"The taxes assessed on shares of stock embraced in such list shall be paid by the corporations, respectively, and they may recover from the owners of such shares the amount so paid by them, or deduct the same from the dividends accruing on such shares; * * * * *"

In *State ex rel v. People's Bank of DeSoto*, 263 S.W. 205, 206, the court said:

"The manifest purpose of Section 12775, supra, (now section 9765) is to afford the assessor authentic information as to the owners of the shares of stock in a corporation that such share may be properly assessed against them. *St. Louis Bldg. & Saving Ass'n v. Lightner*, 42 Mo. l.c. 426."

Thus it appears that though the banking corporation is required to make the tax list and pay the taxes, the shares of stock are assessed against the owners of said stock. *State ex rel v. Gehner*, 5 S.W. (2nd) 40, 319 Mo. 1048.

Section 9806, R.S. Missouri, 1929, as amended in Laws of 1931, page 359, is in part, as follows:

"The compensation of each assessor shall be thirty-five cents per list in counties having a population not exceeding forty thousand, * * * *, and shall be allowed a fee of three cents per entry for making real estate and personal assessment books, all the real estate and personal property assessed to one person to be counted as one name, * * * *."

The bank stock assessed against the owner would, of course, be personal property, and would be entered under the name of the owner in the personal assessment book.

In *State v. Gomer*, 101 S.W. (2nd) 57, the court had before it a question which required a comprehensive review of the law, as it concerns the compensation of assessors. In this case, the court drew nine conclusions. The seventh conclusion of the court, applicable here, is set out at l.c. 66 and is as follows:

"Seventh. That as for compensation for taking the lists required to be delivered to him by owners of personal property (in counties of not more than 40,000 population) an assessor should be paid thirty-five cents for each list taken and should also be paid a fee of three cents per entry for each entry of a property owner's name and the personal property assessed to him, in the alphabetical list in the part of his book concerning personal property."

Under the provisions of Section 9765, R.S. Missouri, 1929, in its present form, the owner of the bank stock does not prepare the tax list, but by statute the banking corporation is required to prepare this list. Nevertheless, it is a tax list taken by the assessor, and for which, in counties having a population of less than 40,000, which includes Daviess County, he is entitled to one fee of thirty-five cents.

The decision in the Gomer case, supra, and the provisions of Section 9806, R.S. Missouri, 1929, as amended, are clear, we think, in providing that for entering the personal property of each owner under his name in the personal assessment book, the assessor is entitled to a fee of three cents for each entry, all personal property and real property listed under one owner to be counted as one entry.

If the owner of said bank stock has already been entered in the personal assessment book and his personal property listed under his name the assessor is not entitled to a fee of three cents

for entering the bank stock owned by him, or any other separate item of personal property, because it is expressly provided that the three cent fee is for entering his name, in the alphabetical list of the assessor's book, and all his personal property listed thereunder.

Therefore, it is the opinion of this department that the assessor of a county having a population of less than 40,000 is entitled to one fee of thirty-five cents for taking, from the president or chief officer, the list of all stock and owners thereof in a banking corporation. That the assessor is not entitled to a fee of thirty-five cents for each name contained in said list taken from the corporation, but only the one fee for the whole list containing all the stock and the owners thereof. That for entering the name of the owner of said stock in the alphabetical list, in that part of the assessor's book covering personal property, the assessor is entitled to three cents, but that in no event is the assessor to charge and receive three cents for entering and listing each separate item of personal property under the name of its owner. The three cent charge is for entering the name of the owner and listing all his personal property thereunder, which would include any bank stock he may own.

Respectfully submitted,

APPROVED:

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 (Acting) Attorney
 General.

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 Assistant Attorney-General