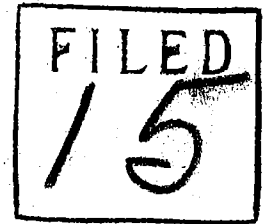


POSTAGE:
TAXATION:
INTANGIBLE TAX:

Five questions involving the procedure of the Director of Revenue in mailing intangible tax forms under Sections 146.050, 146.055 and 146.056.

September 28, 1959



Honorable Milton Carpenter
Director
Department of Revenue
Jefferson Building
Jefferson City, Missouri

Dear Sir:

You recently asked for an opinion as follows:

"For a number of years, it has been the policy of the Department of Revenue to prepay the postage on the intangible blanks for the use of St. Louis and for Jackson County, under the assumption that the City of St. Louis is not mentioned in Section 146.055, nor is the treasurer specifically designated in a first class county.

"We, therefore, wish to be advised as to the legal requirements of this particular section in reference to the following questions:

"1. Is the state of Missouri legally required to prepay the postage on the intangible blanks for the City of St. Louis?

"2. Is the treasurer of the City of St. Louis legally required to provide and mail these blanks in the event that the state is not required to pay the postage?

"3. Is the treasurer of Jackson County responsible for mailing the blanks in the event that the state in this case is not liable for prepayment of postage?

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"4. Is the state required to prepay the blanks on counties under the charter form of government, for example, St. Louis County?

"5. Is the state required to prepay the postage on intangible blanks for second, third and fourth class counties?"

You also informed us that your procedure in the past has been to mail each individual in Jackson County and in the City of St. Louis who paid an intangible tax for the past year a tax blank for the present year. It is about this postage that you inquire.

Section 146.050 of the Revised Statutes of Missouri, 1949, reads as follows:

"1. Except for the calendar year 1946, every person who, pursuant to any provision of this chapter, is liable for a property tax on intangible personal property, shall on or before March fifteenth of the year for which the property is subject to said tax, file with the department of revenue on a suitable form prepared and distributed by it, a property tax return on intangibles showing the kind of intangible owned, the amount of yield therefrom and the amount of tax for which he is liable for the year involved.

"2. The tax shall be payable at the time the return is made and shall become delinquent on June first of the year in which it is due."

Section 146.055, Revised Statutes of Missouri, 1957 Cumulative Supplement, reads as follows:

"It shall be the duty of the state director of revenue to furnish, on or before the first day of January in each year, to the county treasurers of each county under charter form of government and to the county treasurers of class two, three and four counties in this state, forms for the use of the citizens of this state to make property tax returns on intangibles as provided by section 146.050, in sufficient number to meet the needs of the respective counties. At the same time the director

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shall furnish to each treasurer a list of the intangible taxpayers of the respective counties who filed a state intangible tax return the preceding year."

Section 146.056, Revised Statutes of Missouri, 1957 Cumulative Supplement, reads as follows:

"1. On or before the fifteenth day of January of each year every county treasurer shall mail to each intangible taxpayer as listed by the director of revenue, and to such other persons as he may have reason to believe may be possessed of taxable intangible property a form prescribed and furnished by the director of revenue, together with a brief statement of what is required of the taxpayer under sections 146.055 and 146.056. Every county treasurer shall mail, on or before the first day of February of each year, to the director of revenue, a list of the additional names to whom he has mailed said form, which said list of additional names shall be added to the list held by the director of revenue as those who have intangible personal property subject to taxation.

"2. The county treasurer shall keep all such lists strictly confidential and shall not reveal the contents thereof to any person except as herein provided."

Section 54.275, Revised Statutes of Missouri, 1957 Cumulative Supplement, reads as follows:

"For the additional duties imposed upon county treasurers by section 146.056 RSMo 1949, they shall receive the following additional compensation, to be paid in the same manner and from the same funds as county treasurers are now paid provided said treasurers shall have used diligence in securing and preparing the additional list and shall have forwarded the same to the director of revenue.

(1) In class four counties six hundred dollars per annum.

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(2) In class three counties having a population of less than twelve thousand five hundred, six hundred dollars per annum.

(3) In class three counties having a population of more than twelve thousand five hundred but less than thirty thousand, eight hundred dollars.

(4) In class three counties having a population of more than thirty thousand, one thousand dollars.

(5) In class two counties, one thousand dollars.

(6) In counties under charter form of government a compensation to be fixed by the county council."

Sections 146.055, 146.056 and 54.275, above quoted, were passed as one house bill. These three sections were contained in House Bill No. 199 passed in 1951. The heading of the bill was as follows:

"AN ACT relating to intangible personal property tax returns and to the duties of treasurers of counties under charter form of government and of the class two, three and four counties of the state and providing compensation for county treasurers for performing the additional duties required by this act."

Article III, Section 23, of the Constitution of Missouri, 1945, reads as follows:

"No bill shall contain more than one subject which shall be clearly expressed in its title, except bills enacted under the third exception in section 37 of this article and general appropriation bills, which may embrace the various subjects and accounts for which moneys are appropriated."

There may be a slight ambiguity in Section 146.056, supra, in that it refers to every county treasurer. We feel, however, in view of the title to the original house bill and in view of its provisions as to pay increase and further in view of the constitutional provision above cited, that the term "every treasurer",

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when used in this section, means in fact every treasurer in counties under the charter form of government and every treasurer in counties of class two, three and four.

The Director of Revenue was originally given the duty of distributing intangible tax forms under Section 146.050, supra. This section was left in the law after the passage of House Bill No. 199. The plan of the legislature is clear. The Department of Revenue is to furnish a list of intangible taxpayers who filed a state intangible tax return the preceding year to the county treasurers of counties under a charter form of government and counties of class two, three and four. The county treasurer is given the duty of mailing the tax form to each intangible taxpayer listed by the Director and to any other person he believes to have taxable intangible property. The Director of Revenue is to supply the tax forms for the above-mentioned county treasurers. In all areas which are not counties under a charter form of government or counties of the second, third or fourth class, the Director is required to prepare and distribute a proper tax form under Section 146.050, supra. The director then is required to distribute a proper form in all counties of the first class not under a charter form of government.

You requested also information relating to the City of St. Louis. The City of St. Louis for some purposes is held to be a county of the first class not under a charter form of government. We enclose herewith an opinion written October 9, 1946 to the Honorable David A. McMullan. The City of St. Louis has also been treated in other instances as if it were not in a county. We enclose an opinion written April 2, 1956 to the Honorable Eugene P. Walsh which so indicates. We need not draw a fine distinction here since the City of St. Louis is considered either as a city not within a county or as a county of the first class not under a charter form of government. In either instance the Director would be required to distribute tax forms there under the terms of Section 146.050, supra.

We do not feel that the Director need distribute tax forms in counties under a charter form of government or in counties of class two, three or four. The legislature has specifically spelled out how the forms are to be distributed in those areas and the Director should follow the statutory requirements set out. He should not make general distribution, but must furnish forms to the proper treasurer. It is the treasurer's job to distribute the forms.

There is no specific manner set out in the law for distribution by the Director of Revenue in counties of the first class not

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under a charter form of government or in cities not within a county. We feel, therefore, that it is up to the Director to decide how and in what manner the forms are to be distributed. The mailing of forms to individual taxpayers as has been done in the past seems to us to be a logical and effective method though not specifically required by the law.

CONCLUSION.

In answer to your questions:

"1. Is the state of Missouri legally required to prepay the postage on the intangible blanks for the City of St. Louis?"

The Director is required to distribute tax forms in that area. He may, if he desires, make distribution by mailing tax forms to the taxpayer. He is not specifically required, however, to use the mails.

"2. Is the treasurer of the City of St. Louis legally required to provide and mail these blanks in the event that the state is not required to pay the postage?"

No, the duty to distribute intangible tax forms in the City of St. Louis is given to the Director of Revenue.

"3. Is the treasurer of Jackson County responsible for mailing the blanks in the event that the state in this case is not liable for prepayment of postage?"

Jackson County is a county of the first class not under a charter form of government. The Director of Revenue is given the duty to distribute the tax forms in Jackson County.

"4. Is the state required to prepay the blanks on counties under the charter form of government, for example, St. Louis County?"

The intangible tax forms should be furnished to the treasurer of St. Louis County in accordance with Section 146.055, supra.

"5. Is the state required to prepay the postage on intangible blanks for second, third and fourth class counties?"

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The Director of Revenue should furnish the tax forms to the treasurers of second, third and fourth class counties.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James E. Conway.

Yours very truly,

JOHN M. DALTON
Attorney General

JEC:mc