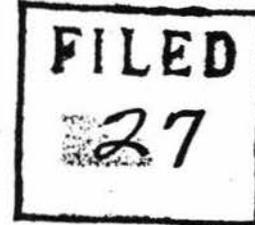


RAILROADS:
TAX ASSESSMENT:

Real property operated as a parking lot by the Terminal Railroad Association of St. Louis is "locally assessable."

August 24, 1950

8/24/50



Mr. Clarence Evans, Chairman
State Tax Commission
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion from this department which request reads as follows:

"We would be pleased to have your opinion as to whether or not the following real estate in St. Louis, owned and operated by Terminal Railroad Association of St. Louis, is assessable by this Commission as distributable property or is locally assessable. The Terminal Railroad submits the following facts which we assume are true as far as they go.

"Quoting from their letter of April 29, 1950 -

"This return includes the property immediately adjoining the Union Station on the West, now devoted to the use of parking for Union Station patrons. This lot is operated solely for the users of the Station and not as a public parking facility. It is connected with Union Station by means of an underpass, opening directly into the St. Louis Union Station and should be assessed as a part of the distributable property of the Terminal Railroad Association of St. Louis. This lot is situated in Block 1697 of the City of St. Louis, consisting of the entire South half of that block, bounded south by Walnut Street, east by 20th Street, west by 21st Street and North by an alley, together with a portion of the north half of said block, 100 feet wide, bounded on the north by Market Street, on the south by an alley and on the west by a line distant 111 feet 6 inches east of the east line of 21st Street, as shown indicated in red color on attached print."

Clarence Evans

"We have ascertained the following facts:

"The Terminal Railroad collects a fee of 10¢ for the first two hours for parking and 50¢ for any additional hours.

"It is also our opinion that anybody can park on this lot by paying the fee, whether he has business with the Union Station or not.

"It is our further understanding that this parking lot is across the street from the Union Station and is connected by an underpass or tunnel which is a great convenience for patrons of the Union Station."

By the Laws of Missouri 1945, page 1825, Sec. 3, it is made the duty of every railroad company to furnish the State Tax Commission an annual sworn statement, setting forth the length of their road in this state, the length of double or side-tracks, with depots water-tanks or turntables, the length of such road, double or sidetracks in each county, municipal township, incorporated city, town or village through or in which it is located in this state; the total number of engines and cars of every kind and description, including all palace or sleeping cars, passenger and freight cars, and all other movable property, owned, used or leased by them on the first day of January in each year, and the actual cash value thereof. It is the duty of the State Tax Commission to assess, adjust and equalize the aggregate value of the property of each one of the railroad companies. (Laws of Mo. 1945, p. 1825, Sec. 7). The Commission shall then apportion the aggregate value of all property specified above to each county, municipal township, city or incorporated town, special road districts,

public water supply, fire protection and sewer districts or subdivisions, except school districts, in which the road is located, according to the ratio which the number of miles of such road in the county, city, etc., bears to the whole length of the road in this state (Laws of Mo. 1945, p. 1952, Sec. 1). The type of property specified above has come to be known as, and is referred to in your letter, as "distributable property."

Laws of Missouri 1945, p. 1825, Sec. 3 provides:

"On or before the first day of May in each and every year, the president or any authorized officer of every railroad company whose road is now or which shall hereafter become so far completed and in operation as to run locomotives engines, with freight or passenger cars thereon, shall furnish to the State Tax Commission a statement, duly subscribed and sworn to by said president, or other authorized officer, before some officer authorized to administer oaths, setting out in detail the total length of their leased road, the entire length in this state, and the length of double or sidetracks, with depots, water tanks and turntables, the length of such road, double or sidetracks in each county, municipal township, incorporated city, town or village through or in which it is located in this state; the total number of engines and cars of every kind and description, including all palace or sleeping cars, passenger and freight cars, and all other movable property owned, used or leased by them on the first day of January in each year, and the actual cash value thereof. In case the report, from any railroad, required by this section, is not received by May 1st of the year in which it is due the State tax Commission may, at its discretion, increase by 4 per cent the total assessed valuation of the railroad company and certify such increase to the Director of Revenue for collection."

Other property, not specified in this section, is "locally assessable" as provided in Laws of Mo. 1945, p. 1825, Sec. 14:

"All real property, or tangible personal property, including lands, machine and workshops, roundhouses

and other buildings, goods, chattles and office furniture of whatever kind, and not hereinbefore specified, owned or controlled by any railroad company or corporation in this state, shall be assessed by the proper assessors in the several counties, cities, incorporated towns and villages wherein such property is located, under the general revenue laws of the state and the municipal laws regulating the assessments of other local property in such counties, cities, incorporated towns and villages, respectively, but the taxes on the property so assessed shall be levied and collected according to the provisions of this article."

The law initiating the present scheme for the assessment of railroad property, in this state, was first enacted in 1871. In this first division of railroad property into two classes for the purposes of taxation, one class of property was referred to as "local" and the other as distributable and are discussed in State ex rel. v. Hannibal & St. J. R. R. Co. (135 Mo. 618). Since that time this taxing plan has been frequently amended but the basic scheme remains substantially unchanged.

In examining the cases relative to this problem we find the State Supreme Court discussing sections almost identical to those two quoted above in State ex rel. Union Electric Light and Power Company v. Baker et al (293 S.W. 399). The court quotes from R. S. Mo. 1919, Sec. 13002 and Sec. 13007 (substantially the same as the two sections quoted above) and says this of them:

"In State ex rel. v. Hannibal & St. J. R. R. Co. 135 Mo. 618, 37 S.W. 532, we referred to the property designated in the first of these two statutes (now Sec. 3) as "distributable" property and to that designated in the second (now Sec. 14) as "local" property. A distinction thus created between these two classes of property, for purpose of assessment and based upon the nature of the uses to which they are devoted, was indicated in State ex rel. v. C. R. I. & Ry. Co., 162 Mo. 391, loc. cit. 394, 63 S.W. 495, 496, as follows:

"The theory of the system of taxing railroads, as contained in our statutes, seems to be that the railroad, with all the necessary appurtenances to its efficient equipment as a means of traffic, is to be taken as a whole and assessed for taxation by the state board of equalization. (Now the State Tax Commission). That does not, however, include the property that is used by a railroad corporation as a collateral facility to its business, such as workshops, etc., nor property held for purposes other than those of a carrier, all of which is subject to taxation by the local authorities."

Many cases which have arisen recognize and discuss the statutes which divide the property of railroads into two classes, the "local" and "distributable", the distributable consisting of the roadbeds, rolling stock and other movable property as enumerated in the Laws of Missouri 1945, p. 1825 Sec. 3. Other property, not specified in this section is referred to in Laws 1945, p. 1825, Sec. 14 and is locally assessable. (State v. Metropolitan St. R. R. Co., 61 S. W. 603, 161 Mo. 138).

The question presented here is into which of the two classes certain property owned by the Terminal Railroad Association of St. Louis should be classified i.e. whether it should be assessable by the State Tax Commission as distributable property or locally assessable. This real property is now devoted to the use of a parking lot for automobiles. It is operated primarily for the users of the station and not as a public parking facility. The Terminal Railroad collects a fee of ten cents for the first two hours of parking and fifty cents for any additional hours, but anyone can park on this lot by paying the parking fee, whether he has business with the Union

Station or not.

Following a review of the facts in this case and the precedent cases under the statutes dividing the property of railroads into two classes for the purposes of tax assessment we conclude this parking lot operation is clearly a collateral facility to the Terminal Railroad Association and is property held for purposes other than those of a carrier, and is locally assessable.

The whole purpose and intent of this legislation dividing the property of railroads into two classes for tax assessment makes it apparent that any such facility as that operated here which is collateral to the operation of a carrier is to be taxed locally, rather than as distributable property.

CONCLUSION

Real property now owned by and operated as a parking lot by the Terminal Railroad Association of St. Louis should be classified as locally assessable property and not as distributable property by the State Tax Commission.

Respectfully submitted,

JOHN E. MILLS
Assistant Attorney General

Approved



J. E. Taylor
Attorney General

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