

ASSESSORS:

Compensation in counties containing less
than 40,000

June 21, 1937.

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Mr. Morgan M. Moulder
Prosecuting Attorney
Camden County
Camdenton, Missouri

Dear Sir:

This Department is in receipt of your letter of May 15, 1937, in which you request an opinion upon the following question:

"To what compensation is the assessor of Camden County; a county containing less than 40,000 inhabitants, entitled with reference to the real property owned by the Union Electric Light and Power Company, a corporation, which owns all the lands inundated by the Lake of the Ozarks, and the Union Electric Land and Development Company, a corporation, which owns several thousand acres of land bordering said lake."

Section 9806, R. S. Missouri, 1929, as amended in Laws of Missouri, 1931, page 358, in part, is as follows:

"The compensation of each assessor shall be thirty-five cents per list in counties having a population not

exceeding forty thousand, thirty cents per list in counties having a population of more than forty thousand; and not exceeding seventy thousand, and twenty-five cents per list in counties having a population in excess of seventy thousand inhabitants, 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, one-half of which shall be paid out of the county treasury and the other half out of the state treasury; Provided, that nothing contained in this section shall be so construed as to allow any pay per name for the name set opposite each tract of land assessed in the numerical list:"

This section was again amended in Laws of Missouri, 1933, page 375, but this amendment concerned counties containing 75,000 to 90,000 inhabitants and does not concern us here.

A "tax list" as this term is used in Section 9806, supra, is that account or enumeration of taxable property, both real and personal, made by the owner thereof upon oath and delivered to the assessor, or prepared by the assessor in accordance with the provisions of Section 9760, R. S. Missouri, 1929, when for any cause a list is not given the assessor. This is an inescapable definition in view of Section 9756, R. S. Missouri, 1929, which enumerates the items of property to be contained in a "tax list".

In State v. Gomer, 101 S. W. (2d) (Missouri Supreme) 57, the court had before it a question which required a comprehensive review of the law relating to assessors. In that case the compensation and duties of an assessor are discussed in detail and certain conclusions are drawn by the court which we shall set out here.

"First. That an assessor should obtain a list in the form prescribed

by Section 9756, R. S. 1929 (Mo. St. Ann. Section 9756, p. 7872), from every person who owns 'taxable personal property in his county,' and should require such list to contain 'a list of all the real estate and its value' owned by such persons.

Second. That whenever from any cause a list of any taxable personal property is not delivered to him by the owner or his representative, then the assessor shall make a list thereof as required by Section 9760, R. S. 1929 (Mo. St. Ann. Section 7877), or if the owner of such property is deceased then as required by Section 9763; R. S. 1929 (Mo. St. Ann. Sec. 9763, p. 7879).

Third. That an assessor is not required to take the list described in Section 9756, R. S. 1929, from persons who own no 'taxable personal property in his county', and is, therefore, not required to make the list required by Section 9760, R. S. 1929, for only real estate owned by non-residents of his county.

Fourth. That an assessor is required to make 'Part First' of his book, denominated 'The Land List' from the list of taxable lands in his county furnished by the Secretary of State, the government maps and plats on file in his county, the last assessor's book and other information or records (see Section 9797, R. S. 1929 (Mo. St. Ann. Section 9797, p. 7901); and that he shall use the information obtained from the lists taken from personal property owners and from other sources to aid him in obtaining a correct description of all tracts of land, in placing

the name of the true owner opposite each tract, and in ascertaining its value.

Fifth. That an assessor is required to make 'Part Second' of his book denominated 'Personal Property' from the lists taken by him from property owners, or made out by him whenever, for any cause, it has not been possible to obtain from the owner a list of any taxable personal property which he has been able to locate.

Sixth. That as compensation for making the numerical assessment in the land list, an assessor should be paid such amount as may be allowed by the county court not to exceed the sum of 3 cents for each and every tract so assessed; but that all contiguous tracts in the same section and all contiguous lots in the same square or block which can be consolidated into one tract, lot, or call shall be counted as one tract.

Seventh. That as for compensation for taking the lists required to be delivered to him by owners by personal property (in counties of not more than 40,000 population) an assessor should be paid 35 cents for each list taken and should also be paid a fee of 3 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 covering personal property.

Eighth. That an assessor is entitled to thirty-five cents per list for each list he takes which contains personal property, whether he takes it from the owner or makes it on his own view or

other information obtained as specified under Section 9760 or Section 9763, R. S. 1929 (Mo. St. Ann. Sec. 9760, 9763, pp. 7877, 7879), but he is not required to make or entitled to receive any compensation for making a list containing only real estate.

Ninth. That the county and the state shall each pay one-half of the compensation for taking lists, and for making proper entries in both the land list and the personal property list."

In *Sparks v. Clark*, 57 Mo: 58, and *Davidson v. Laclede Land and Development Company*, 253 Mo. 223, it is said by the court that all subdivisions of a section of land belonging to the same person should be counted as one tract although such subdivisions may not be contiguous.

In the instant case, for example, assume that the Union Electric Light and Power Company owns land situated in one hundred different sections in Camden County, and also has personal property situated in said county. In making out this "tax list" the company describes and accounts for all their taxable property, both real and personal, in one list, or if the company fails to make a list the assessor prepares one in the same manner. The compensation of the assessor, in this instance, would be thirty-five cents for taking the tax list containing all the real and personal property of the company, (this thirty-five cents only allowable if the tax list contained personal property); three cents for entering all the personal property opposite the name of the company under "personal property" in his book kept for that purpose; and a sum not to exceed three cents for each tract entered under the "land list" in said book (counting all land lying in the same section as one tract), making a total of not to exceed three dollars and thirty-eight cents (\$3.38) for the personal property and land lying in the one hundred sections, if the county court should allow the full three cents for the numerical entering of each tract in the "land list".

CONCLUSION

Therefore, it is the opinion of this Department, as we have attempted to illustrate, and in view of the Gomer Case, supra, that the assessor of Camden County, a county containing less than forty thousand inhabitants, is entitled to thirty-five cents per list as compensation for taking the tax list of the personal property of the Union Electric Light and Power Company and of the Union Electric Land and Development Company. That for making the alphabetical entry of the personal property of said companies, under "personal property" in the book kept for that purpose, the assessor is entitled to three cents for listing all of said personal property opposite the name of its owners. That for making the numerical (or alphabetical if used) entry of the real property of said companies, under the "land list" in said book, the assessor is entitled to a sum, to be fixed by the county court, not to exceed three cents per entry for each tract so entered. That for the purpose of determining the compensation for the entry of real property under the "land list" in said book all land lying in the same section shall be considered as one tract.

Respectfully submitted,

LLB MR

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APPROVED:

J. E. TAYLOR (Acting)
Attorney-General.