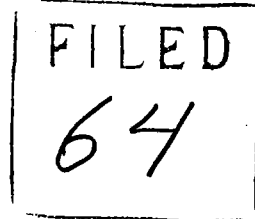


PUBLIC RECORDS:

Availability of intangible personal property tax returns to public inspection.

October 21, 1947



Mr. M. E. Morris, Director
Department of Revenue
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this office, reading as follows:

"It is requested that you furnish this department with a written opinion stating whether or not the lists of individuals, partnerships, corporations, etc. who pay intangible taxes under House Bills 888, 869, 868, 948 and 407 may be furnished or made available to persons, corporations or political subdivisions requesting same."

Under the provisions of House Bills Nos. 868, 869, 888 and 948 of the 63rd General Assembly, and House Bill No. 407 of the 64th General Assembly, individuals, partnerships, corporations and other taxable entities affected by the various bills are required to file returns of the tax due upon their intangible personal property with the Director of Revenue. We think that upon the filing of such returns they then become "public records," in accordance with the general rule defining records of this type, as found in 53 C. J., page 604, reading as follows:

" * * * A public record has been defined as one required by law to be kept, or necessary to be kept in the discharge of a duty imposed by law, * * * "

We note that no statute specifically makes such returns public records; therefore, we think the additional rule found at page 605 of the same volume to be applicable. This rule reads as follows:

" * * * In the absence of statute, the nature and purpose of the record, and possibly, custom and usage, must be the guides in determining the class to which it belongs.
* * *"

Considering the past history of the taxing of intangible personal property and the procedure followed under previous statutes under which the lists of intangible personal property owned by taxpayers of the various categories became public records in the office of the collector of revenue in the various counties, we believe that the returns made under the present scheme for the taxation of intangible personal property are "public records." This view is further strengthened by the fact that the lists of real property and tangible personal property have been continued as public records in the office of the collector of revenue in the various counties under present statutes. We also note that in neither of the intangible personal property taxing acts has the General Assembly seen fit to impose secrecy upon such returns specifically, as has been done with respect to certain other types of returns for tax purposes.

The Supreme Court of Missouri has followed this rule, saying in *State ex rel. v. Henderson*, 169 S. W. (2d) 389, 1. c. 392:

"In all instances where, by law or regulation, a document is required to be filed in a public office, it is a public record and the public has a right to inspect it. 53 *Corpus Juris*, Section 1, Pages 604 and 605; *Clement v. Graham*, 78 Vt. 290, 63 A. 146. Ann. Cas. 1913E, 1208; *Robison v. Fishback*, 175 Ind. 132, 93 N. E. 666, L. R. A. 1917B, 1179, Ann. Cas. 1913B, 1271; *State ex rel. Eggers v. Brown*, 345 Mo. 430, 134 S. W. 2d 28."

A similar question was before the same court in *State ex rel. v. Brown*, 134 S. W. (2d) 28, and in that case a similar decision was reached. However, it was pointed out in the last-mentioned case that such right of inspection of public records is not an unqualified right and that certain restrictions and limitations are applicable thereto. We quote, 1. c. 32:

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" * * * The special commissioner did not hold, and neither do we, that relator's right to inspect and copy the records is an unlimited right. It is subject to such reasonable regulations as respondents may impose to prevent undue interference with the work of the employees of the office, and to prevent undue interference with members of the public being served at the office."

CONCLUSION

From the foregoing, we are of the opinion that the returns of intangible personal property made by taxpayers under the provisions of House Bills Nos. 868, 869, 888 and 948 of the 63rd General Assembly, and House Bill No. 407 of the 64th General Assembly, are "public records" and are available to inspection by the public, subject, however, to such reasonable regulations and restrictions as may be imposed by the officer having charge of such public records so that such inspection shall not interfere with the operation of the ordinary business of such officer.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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