

ASSESSORS: Township assessors entitled to be paid for taking list containing only real estate in view of Laws of 1937, p. 570.

December 22, 1938

Mr. H.I. Phelps
Township Assessor
Salisbury, Missouri

Dear Sir:

This will acknowledge receipt of your letter of December 19, 1938, requesting an opinion of this department as to the compensation a township assessor is entitled to for taking and listing personal property and real estate.

Section 12328, R.S. Missouri, 1929, provides that a township assessor shall, within the time prescribed by law, take a "list" of the taxable property of his township and assess the value thereof "in accordance with the provisions of the general laws of this state in relation to the assessment of real and personal property by county assessors" (Chapter 59, Article 2, R.S. Missouri, 1929) except when the same are inconsistent with this article.

Section 12329, R.S. Missouri, 1929, requires the township assessor to make out a book in tabular form and alphabetical order containing the names of all persons, companies or corporations, and the list of their personal property and the value thereof. He must also list in this book all lands and town lots in his township and the value thereof. This book is to be delivered to the county clerk and is to be made out in such form as is prescribed in the general law relating to county assessors. For this, the township assessor is entitled to certain fees.

By the two above mentioned sections of the law pertaining to township assessors, we referred to the general law pertaining to county assessors for direction and authority for the township assessor to follow in performing his

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duties.

Section 12331, R.S. Missouri, 1929, as amended, Laws of 1931, page 376, provides the compensation of a township assessor and is as follows:

"He shall receive, as compensation for his services, thirty-five cents for each list taken by him; and for each tract of land or town lot assessed by him, and properly entered in the township land book, he shall receive ten cents, one-half to be paid by the county and one-half by the state, as now provided by law: Provided, that all the personal property listed belonging to any one individual or company, or firm, shall constitute only one list, and all the land owned by the same person in any one section shall constitute but one tract, and all the land owned by the same person in any one block shall constitute but one lot, as to compensation."

It is for taking the list mentioned in this section that the township assessor is paid in part. It is to be noted that Section 12328, supra, directs the township assessor to "proceed to take a list of the taxable property of his township", and that no mention is made in said section as to whether the property listed must be real or personal. For this distinction, we must refer to the law relating to county assessors as is required by said section.

In State v. Gomer, 101 S.W. (2nd) 1.c. 66, it is held concerning county assessors that they are "not required to make or entitled to receive any compensation for making a list containing only real estate". This was based on an interpretation of Section 9756, R.S. Missouri, 1929. However, in Laws of 1937, page 570, this section was amended and the apparent purpose of this amendment was to nullify a part of the Gomer decision respecting the compensation of county assessors.

The 1937 amendment, outside of some minor changes as to the items of personal property required to be listed, made these changes: It provided that the assessor shall

"proceed to take a list of the taxable personal property and real estate in his county", and a sentence was added to the end of the new section which, however, does not affect us here. The words "and real estate" above underlined, did not appear in Section 9756 before it was amended and we now see by the addition of these words that this section specifically requires both personal property and real estate to be listed. The personal property and real estate as mentioned in Section 9756, supra, is that property for which the township assessor is paid for taking a list of under the terms of Section 12331, Laws of 1931, page 376.

On December 21, 1937, this department rendered an opinion to G.C. Beckham of Steelville, Missouri, upon this same subject, but that opinion overlooked that part of the amendment of Section 9756, supra, adding the words "and real estate", and for that reason, is erroneous.

CONCLUSION.

Therefore, it is the opinion of this department that a township assessor should obtain a list in the form prescribed by Section 9756, R.S. Missouri, 1929, as amended, Laws of 1937, page 570, from every person who owns taxable personal property and real estate in the township. For taking said list, he is entitled to thirty-five cents and said list is required to contain all personal or real property, or both, owned by one person in said township.

Section 9756, supra, as amended, was enacted with an emergency clause taking effect on approval - May 28, 1937. Previous to that time, the township assessor was not entitled to any compensation for taking a list containing only real estate.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED By:

(Acting) Attorney General