

Assessors: Fees for assessment lists, authority to make in absence of return
Sec. 9760

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Hon. C. P. Turley,
Prosecuting Attorney,
Van Buren, Missouri.

Dear Sir:

We have your letter of January 28th, requesting an opinion of this department upon the following facts:

"Sec. 9806, R.S. Mo. 1929, fixes compensation of Assessors. Ours is a county of a population of less than 30,000. This entitles assessor to 35¢ per list, and 3¢ per entry for making real estate and personal assessment books.

The practice here during the past few years, and that is supposed to be based on direction of experts in State Auditor's Office and on opinions from the office of the Attorney-General, is for the assessor to make the usual assessment of the residents of the county, and, in addition to that, to then go to real estate tax books and make a personal assessment list for each non-resident of the county or state who has paid taxes that year. The contention is that he could make out a personal assessment list from each of the entries on the real estate book, whether taxes were paid or not, and that as a favor to the county the Assessor is confining this list to the residents of the county and to those names on the real estate tax book who have paid taxes.

Since in this county of 506 square miles there are approximately 10,000 separate tract of land on the real estate book and many of that number are paid on, the practice above is quite a burden to this county.

I want to know if the practice above referred to is founded on law. We had always understood that personal assessment lists were confined to parties with personal property in the county."

Section 9760, R. S. Mo. 1929, provides that whenever there shall be any taxable property in any county and from any cause no list therefor shall be given to the assessor in proper time and manner, the assessor shall himself make out the list, on his own view or on the best information he can obtain, and for that purpose he shall have lawful right to enter into any lands and make any examination and search which may be necessary and may examine any person upon oath touching the same..

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Section 9760, R. S. No. 1929, among other things, provides for the making up of the assessment books and the compensation to be paid the assessor therefor. Section 9806, R. S. No. 1929, provides for the manner of payment of the fees allowed the assessor in connection with his duties, one-half to be paid by the county and the other half by the state.

The lists of real estate taxable in the county and owned by non-residents or by persons from whom the assessor is unable to procure a list, when prepared by the assessor entitles him, in our opinion, to compensation therefor at the rate of fees authorized by law for taking assessment lists.

Whether or not the assessor makes out a list in accordance with the provisions of Section 9760, supra, is a question of fact to be determined by the county court. If the assessor did not in fact make out such lists of real estate in the county, then the compensation for entering such real estate on the land list would be three cents for each tract under Section 9760, supra, and he could not make a charge for lists that he did not prepare, based upon his information and investigation as Section 9760 provides.

Very truly yours,

Carl C. Abington,
Assistant Attorney-General

CCA/W