

TAXATION AND REVENUE

} Omitted tangible personal property may be added to Assessment rolls by County Board of Equalization or State Tax Commission for current year.

January 16, 1950

FILED NO. 27



Honorable Clarence Evans  
Chairman, State Tax Commission  
Jefferson City, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department and reading as follows:

"We have had many requests from counties asking for information regarding tangible personal property. Where there has been a failure to assess for a year, or years, can the assessor go back and place these assessments on the books, and if so, for how many years?"

"Under House Bill 265, Laws of 1947, Section 15, Subsection 8, it requires the Tax Commission to place upon the assessment rolls at any time during the year omitted property which may be discovered to have, for any reason, escaped assessment and taxation. This, of course, covers only the current year."

We are enclosing an official opinion of this department rendered under date of June 25, 1945, to Horace T. Robinson, which, we believe, correctly holds in paragraphs 1 and 2 that tangible personal property omitted from the assessment rolls may be added by the County Board of Equalization or by the State Tax Commission. Section 11006, Laws of Missouri, 1945, page 1775, provides as follows:

"The county Board of Equalization, in regular session, shall have authority to assess and equalize the value of any property that may have been omitted from the assessor's books then under

Honorable Clarence Evans

examination by said board and in case the board shall add any property to the assessor's books, it shall cause notice in writing to be served upon the owner of such property, stating the kind and class of property and the value fixed thereon by said board, and naming the time and place, not less than five days thereafter, when and where such owner may appear before the board and show cause why said assessment should not be made. At the time fixed, the board shall again meet and give opportunity to the taxpayer to be heard in regard to his assessment, and may change or alter the same upon being shown by the owner that the assessment was erroneous or improperly made; otherwise, the property and the valuation, as fixed by the board, shall be extended upon the assessor's books, as in case of other property. The notice shall be signed by the clerk of the county court, and shall be served by mail and it shall be the duty of the prosecuting attorney, or county counselor, if any, when called upon by the board of equalization, to represent the county in any such proceedings. In case of the assessment of real estate belonging to non-residents a notice containing the action of the board of equalization shall be mailed to the owner, administrator or executor to the last known address. This notice shall state the kind and class of property and the value fixed thereon by said board, and naming the time and place, not less than five days thereafter when and where such owner, administrator, or executor may appear before the board and show cause why such assessment should not be made. Provided, that in any case where the residence of the owner, administrator or executor is unknown, publication shall be made of the additional assessment in one issue of a newspaper of general circulation which is published at least once a week within the county."

Honorable Clarence Evans

In the case of State ex rel. v. Pulliam, 233 Mo. 229, the Supreme Court of Missouri said in speaking of what is now Section 11006, supra, at l. c. 234:

"The attempted addition of property for 1904 was invalid for the reason that neither in the Act of 1903, nor elsewhere, is there power given to the board of equalization to add for assessment property omitted for any year prior to the then current year. The Act of 1903 provides that the board shall have power to 'assess and equalize the value of any property that may have been omitted from the assessor's books then under examination by said board.' This plainly refers to the books for the current year only, as they are the only ones 'under examination by said board.'"

Since Section 11006 now provides that the County Board of Equalization has authority only to assess and equalize the value of any property that may have been omitted from the assessor's books, then under examination by said board, we believe that the County Board of Equalization may place omitted property on the assessment rolls only for the year in which the assessment rolls are under consideration by the board.

Section 15, Laws of Missouri, 1947, Volume I, page 548, provides in part as follows:

"It shall be the duty of the State Tax Commission and the commissioners shall have authority to perform all duties enumerated in this section and such other duties as may be provided by law:

\* \* \* \* \*

"(8) To cause to be placed upon the assessment rolls at any time during the year omitted property which may be discovered to have, for any reason, escaped assessment and taxation, and to correct any errors that may be found on the assessment rolls and to cause the proper entry to be made thereon."

Honorable Clarence Evans

Section 16, Laws of Missouri, 1947, Volume II, page 436, provides in part as follows:

"After the various assessment rolls required to be made by law shall have been passed upon by the several boards of Equalization and prior to the making and delivery of the tax rolls to the proper officers for collection of the taxes, the several assessment rolls shall be subject to inspection by the Commission, or by any member or duly authorized agent or representative thereof. In case it shall appear to the Commission after such investigation, or be made to appear to said Commission by written complaint of any taxpayer, who has previously appealed to the local Board of Equalization, that property subject to taxation has been omitted from said roll, or individual assessments have not been made in compliance with law, the said Commission may issue an order directing the assessing officer whose assessments are to be reviewed to appear with his assessment roll and the sworn statements of the person or persons whose property or whose assessments are to be considered, at a time and place to be stated in said order, said time to be not less than five days from the date of the issuance of said order, and the place to be at the office of the county court at the county seat, or at such other place in said county in which said roll was made as the Commission shall deem most convenient for the hearing herein provided. \* \* \* As to the property not upon the assessment roll, the county clerk, upon order of the State Tax Commission, acting in said review, shall place the same upon said assessment roll by proper description and shall place thereafter in the proper column the value required by law for the assessment of said property. \* \* \*"

We believe it to be obvious from the provisions of subsection 8 of Section 15, Laws of Missouri, 1947, Volume I, page 548, as well as the provisions of Section 16 of Laws of Missouri, 1947, Volume II, page 436, referring to the assessment rolls which have been passed upon the the County Boards of Equalization that the State Tax Commission has power

Honorable Clarence Evans

to place on the assessment rolls omitted tangible personal property only for the year for which the Commission is reviewing such assessment rolls.

CONCLUSION

It is the opinion of this department that tangible personal property, which has been omitted from the assessment rolls, may be placed thereon by the County Board of Equalization or by the State Tax Commission only during the year when the County Board of Equalization or the State Tax Commission is reviewing the assessment rolls.

Respectfully submitted,

C. B. BURNS, JR.  
Assistant Attorney General

APPROVED:

---

J. E. TAYLOR  
Attorney General