

TAXATION AND REVENUE: Township entitled to taxes derived from
TOWNSHIPS: imposition of township levy on real and
personal property located therein accord-
ing to general law.



October 29, 1954

Honorable Christian F. Stipp
Representative, Carroll County
Carrollton, Missouri

Dear Sir:

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

"Carroll County operates under the township
organization law. Carrollton Township has
been duly named and described by the county
court and consists of Township 53N of Range
23W. Wakenda Township has been duly named
and described by the county court and con-
sists of Township 52N of Range 23W.

"The Town of Carrollton is located partly
in Carrollton Township and partly in Wakenda
Township with the greater part (both in area
and population) in Carrollton Township.

"For many years the property located in that
part of the Town of Carrollton which lies in
Wakenda Township has been assessed by the
Carrollton Township assessor and taxes as-
sessed and levied against said property have
been collected by the Carrollton Township
Collector. In other words, we have always
proceeded in tax matters as if the entire
Town of Carrollton was in Carrollton Town-
ship.

"Please advise me whether or not the taxes
levied for township purposes against property
located within the Town of Carrollton and in
Wakenda Township should go to Carrollton
Township or Wakenda Township.

"It is rather important that I have your
opinion as soon as possible."

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Your attention is first directed to the provisions of Section 137.440, RSMo 1949, relating to the making of assessments in counties under township organization, which reads as follows:

"The assessor or some suitable person empowered by him, shall, within the time prescribed by law, and after being furnished with the necessary blanks proceed to 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 tangible personal property by county assessors, in all things pertaining to the discharging of his official duties, except when the same may be inconsistent with the provisions of this chapter; provided, that in counties under township organization the assessor shall not be required to give bond and his compensation shall be such as is provided in section 65.240, RSMo 1949 for his services."

Your attention is further directed to the provisions of Section 137.435, RSMo 1949, reading as follows:

"All real property shall be assessed in the township in which the same is situated, with the owner's name thereof, if known; if the owner's name is not known, then it shall be assessed as nonresident."

We will not undertake to point out the various statutes relating to the tax situs of tangible personal property, inasmuch as such situs is affected by the ownership of such property. Suffice it to say that in each instance the tax situs will be determined according to the general laws relating to the assessment of property of this type. As bearing upon this question, and in the belief that they might be helpful to you, we attach hereto copies of official opinions previously delivered under dates of March 10, 1950 and July 28, 1954, to W. V. Mayse, Prosecuting Attorney, Harrison County, and John R. Caslavka, Prosecuting Attorney, Dade County, respectively.

The foregoing clearly indicates that in each township all real property located within the boundaries thereof, together

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with such personal property as may have acquired a tax situs therein, is to be assessed for township purposes by the township assessor. Subsequently taxes derived from such assessments are to be paid into the proper funds of such township. The mere fact that a city, town or village may lie partly in one township and partly in another does not interfere with the assessment of such portion of the real property embraced in such city as is located within a particular township. Similarly, if tangible personal property has its tax situs within such township, then it is properly assessable therein.

CONCLUSION

In the premises, we are of the opinion that real property forming a part of a city lying in two separate townships is to be assessed for township purposes within the township where actually located.

We are further of the opinion that all tangible personal property having its tax situs within such township is to be similarly assessed.

We are further of the opinion that taxes derived from levies imposed upon the valuations of such property are to be collected by the township collector of the township wherein such real and tangible personal property is assessed and the proceeds of such collections credited to the benefit of such township.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Will F. Berry, Jr.

Respectfully submitted,

John M. Dalton
Attorney General

WFB/vtl

Enclosures: 3-10-50 W.V. Hayse
7-28-54 John R. Caslavka