

PERMITS: County courts of fourth class county may not issue permits for purpose of taxation for all new buildings constructed in the county. It is the licensed manufacturer, within §150.300 to 150.320, RSMo 1949, against whom the personal property taxes applicable are assessed.

TAXATION:



April 16, 1958

Honorable Eugene S. Heitman
Prosecuting Attorney
Bollinger County
Marble Hill, Missouri

Dear Mr. Heitman:

This will acknowledge receipt of your opinion request of March 21, 1958, which reads as follows:

"We would like your opinion on two questions here in Bollinger County.

"(1) The Deevers Shoe Factory, of Lutesville, Missouri, operates machinery belonging to United Shoe Machinery Company. Should personal property tax on this shoe machinery be paid by Deevers Shoe Factory or by United Shoe Machinery Company?

"(2) Does the Bollinger County Court have authority to issue building permits for the purpose of taxation, for all new buildings constructed in the County?

"I will appreciate your opinion on these questions at your early convenience."

It is our understanding from the telephone conversation with you on the 31st of March that you wish us to interpret your first question to be as against whom the personal property tax on this shoe machinery should be assessed rather than to determine which of the two involved companies should be responsible for the payment of the property tax. The payment of the tax could be governed by stipulations of the lease or contract, of which there was no submission to this office. To clarify the question to which we direct this opinion, we shall place it in this form:

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(1) The Deevers Shoe Factory of Lutesville, Missouri, a manufacturing corporation, operates machinery belonging to United Shoe Machinery Company. Should personal property tax on this shoe machinery be assessed against the Deevers Shoe Factory or against the United Shoe Machinery Company?

It is our belief that the answer to your problem is suggested by Chapter 150 of the Revised Statutes of Missouri, 1949. We direct your attention first to Sections 150.300 and 150.310(1), RSMo 1949, which state:

"150.300--Every person, company or corporation who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining, or by the combination of different materials, shall be held to be a manufacturer for the purposes of sections 150.300 to 150.370."

"150.310.--1. Every manufacturer in this state shall be licensed and taxed on all raw material and finished products, as well as all the tools, machinery and appliances used by them, in the same manner as provided by law for the taxing and licensing of merchants; and no county, city, town, township, or municipal authority thereof, shall ever levy any greater amount of tax against a manufacturer than is levied against merchants for the same period." (Underscoring ours.)

And we also call your attention to Section 150.320, which reads:

"1. On the first Monday in May in each year, every manufacturer shall furnish to the assessor of the licensing county or township a statement of the greatest amount of raw material and finished products, as well as all the tools, machinery and appliances used by him, which he may have had on hand at any time between the first Monday in January and the first Monday in April next preceding. The statement shall include raw materials and finished products owned by such manufacturer, as well as all the tools, machinery and appliances used by him.

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"2. The county assessor shall enter such statements in a book to be prepared for that purpose at the expense of the county, suitably ruled, with columns for the name of the manufacturer, the amount of his statement as returned to the assessor, the valuation of such statement as equalized by the county board of equalization, and for state, county, and school taxes, and such other columns as may be found useful or convenient in practice. The assessor shall verify the tax book by an affidavit annexed thereto in the following words:
* * *."

It is to be observed from the above statutes that manufacturing corporations are to be taxed in the same manner as provided by law for the taxing and licensing of merchants. And for the purpose of assessment of the tax every manufacturer shall furnish to the assessor of the licensing county, or township, a statement of the greatest amount of the tools, machinery and appliances used by him. We believe that it was the intention of the Legislature that the statement furnished by the manufacturer to the assessor should serve as the basis for the assessment of the taxes against such property. We also believe that it was the intention of the Legislature that the taxes should be assessed against the manufacturing corporation which is licensed in accordance with the statutes and which was required to submit the statement for the purpose of the assessment.

It is our opinion that it could not have been intended that there exists an unlimited discretion in the assessor in determining against which entity or person the taxes should be assessed. It is the product of reason and logical inference that brings us to the conclusion that it is the licensed manufacturer, within Sections 150.300 to 150.320, RSMo 1949, against whom the personal taxes applicable are assessed.

From the 1957-58 Roster of State, District and County Officers of the State of Missouri, compiled by the Missouri Secretary of State, we find that the county of Bollinger is a county of the fourth class.

Upon a study of the sections of the Revised Statutes of 1949, applicable to counties of the fourth class, and county courts generally, we can find no express authority for a fourth

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class county court to issue building permits for the purpose of taxation for all new buildings constructed in the county. Nor do we observe any authority from which it may be implied that a fourth class county court has authority to issue building permits for the purpose of taxation for all new buildings constructed in the county.

We direct your attention to the case of King vs. Maries County, 249 S.W. 418, 1.c. 420, where the court stated:

"It has been held uniformly that county courts are not the general agents of the counties or of the state. Their powers are limited and defined by law. They have only such authority as is expressly granted them by statute * * *. This is qualified by the rule that the express grant of power carries with it such implied powers as are necessary to carry out or make effectual the purposes of the authority expressly granted. * * *"

In State ex rel. Moser vs. Montgomery, 186 S.W. 2d. 553, it is stated:

"The county courts are courts of limited jurisdiction without common-law jurisdiction and, aside from the management of the fiscal affairs of the county, possess no powers except those conferred by statute."

CONCLUSION

It is the opinion of this office that personal property tax to be assessed against the manufacturing shoe machinery operated by the Deevers Shoe Factory of Lutesville, Missouri, should be assessed against the Deevers Shoe Factory.

We are also of the opinion that consistent with the above citations, and the statutes of Missouri, there is neither express nor implied authority for the Bollinger County Court to issue building permits for the purpose of taxation for all new buildings constructed in the county.

Yours very truly,

JOHN M. DALTON
Attorney General

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