

TAXATION:
COUNTY CLERKS:

Under Section 165.083, RSMo 1949, county clerks re-
quired to extend all tax levies for school purposes
in separate columns of tax book.



September 23, 1952

9-23-52

Honorable R. M. Gifford
Prosecuting Attorney
Sullivan County
Milan, Missouri

Dear Sir:

The following opinion is rendered in reply to your request
which reads as follows:

"The County Clerk of Sullivan County, Mis-
souri, requests your opinion with reference
to the question of whether or not he is
under a duty to extend in a special column
any special levy of tax properly voted by
the residents of a reorganized school dis-
trict situate in Sullivan County, Missouri.
The Clerk states that it has been his prac-
tice to extend in one column of the tax-
books the levy as set by the Board of Di-
rectors and to include therein any special
levy that may have been voted by the resi-
dents in an election held for that purpose."

Section 137.290, RSMo 1949, provides, in part, as follows:

"* * * The clerk of the county court in
each county, upon receipt of the certi-
ficates of the rates levied by the county
court, school districts and other politi-
cal subdivisions authorized by law to
make levies or required by law to certify
levies to the county court or clerk of
the county court, shall then extend the
taxes in the assessor's book, in proper
columns prepared for such extensions, ac-
cording to the rates levied; * * *" (Under-
scoring ours.)

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Tax levies for school district purposes are based on an annual estimate made by the board of directors of a school district under authority contained in Section 165.077, RSMo 1949, which provides as follows:

"The board of directors of each school district shall, on or before the fifteenth day of May of each year, forward to the county superintendent of schools an estimate of the amount of money to be raised by taxation for the ensuing school year, and the rate required to produce said amount, specifying by funds the amount and rate necessary to sustain the school or schools of the district for the time required by law or authorized by the qualified voters of the district, to meet principal and interest payments on the bonded debt of the district, and to provide such funds as may have been ordered by the qualified voters of the district for other legitimate district purposes, including the purchase of school building sites, buying or erecting school buildings, repairing and furnishing such buildings, and providing foot bridges across running streams."

Section 165.083, RSMo 1949, a statute particularly applicable to duties of the county clerk in extending school tax levies on the tax books provides, in part, as follows:

"Upon receipt of the estimates of the various districts, the county clerk shall proceed to assess the amount so returned on all taxable property, real and personal, in each district, as shown by the last annual assessment for state and county purposes, including all statements of merchants in each district of the amount of goods, wares and merchandise owned by them and taxable for state and county purposes; provided, the levy thus extended shall not exceed in any one year the following rates on the hundred dollars assessed valuation; for sinking fund, forty cents; for interest fund, the number of cents necessary to produce the amount required to pay the interest on the bonded debt of the district; for other funds, eighty-nine cents in the city of St. Louis, one dollar in other districts formed of cities and towns, sixty-five cents in all other districts, and such additional rate or rates in each case as may have been legally authorized by the qualified voters of the district; all of which shall be extended by the county clerk

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upon the general tax books of the county for
said year in separate columns arranged for
that purpose; * * *." (Underscoring ours.)

In the case of the St. Louis & San Francisco Railway Company v. Gracy, 29 S.W. 579, 126 Mo. 472, the Supreme Court of Missouri was construing Section 8000 R.S.Mo. 1889. Now such section has been brought forward in our subsequently revised statutes and is found at Section 165.077, RSMo 1949, quoted supra, and which provides for the school districts annual estimate. Although Section 8000, R.S.Mo. 1889 has undergone some minor changes since 1889, as of said date, the statute did require that the estimate should state "clearly the amount deemed necessary for each fund, and the rate required to raise said amount." In the Gracy case just cited, the railroad involved criticized the mode of taxation of its property under the estimates in that instance because the estimates submitted, omitted to state the total amount of the funds required for the several purposes of taxation. The Supreme Court disposed of this contention in the following language found at 126 Mo. l.c. 483:

"We consider the failure to state, in the estimates, the amount of the taxes, or of the several funds required, as in case at bar, a mere irregularity, not going to the substance of the tax, where the rate of the tax is stated, and the valuation of the property for taxation in the several districts is already known and determined."

We do not deem it necessary to cite additional authority holding that the tax levy to be extended on the tax books by the county clerk for school purposes must conform with the estimate required by Section 165.077, RSMo 1949, supra. The language contained in Section 165.083, RSMo 1949, quoted above, discloses that all levies for school purposes should be extended in a separate column, appropriate to each levy, in the tax book.

CONCLUSION

It is the opinion of this department that tax levies for school purposes to be extended in the tax book by the county clerk under authority contained in Section 165.083, RSMo 1949, must be extended in separate columns appropriate to each separate levy authorized.

Respectfully submitted,

JULIAN L. O'MALLEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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