

TAXATION AND REVENUE:

Missouri State Tax Commission does not have authority to apportion "distributable property" of railroad company or similar public utility to public library districts.

May 11, 1948



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

Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office and reading as follows:

"We would be glad to have your opinion as to whether the Missouri State Tax Commission has authority under the law, to allocate the distributable property located within Public Library Districts in Missouri."

The term "distributable property," used in your letter of inquiry, refers to the property of railroads and other public utility companies which, under the provisions of paragraph (12) of Section 11033.14, Mo. R. S. A., is required to be originally assessed by the State Tax Commission and the valuation thereof apportioned to the various counties and other minor subdivisions.

Paragraph (12) of Section 11033.14, Mo. R. S. A., reads, in part, as follows:

"The Commission shall have the exclusive power of original assessment of railroads, railroad cars, rolling stock, street railroads, bridges, telegraph, telephone, express companies, and other similar public utility corporations, companies and firms.
* * *"

After having made such original assessments, the State Tax Commission is thereafter required to apportion such aggregate value of all property of each railroad and other similar public utilities to the counties and various minor subdivisions, under the provisions of Section 11280.11, Mo. R. S. A., reading, in part, as follows:

Honorable Clarence Evans

"Said commission shall apportion the aggregate value of all property hereinbefore specified belonging to or under the control of each railroad company, to each county, municipal township, city or incorporated town, special road districts, public water supply, fire protection and sewer districts or subdivision, except school districts, in which such road is located, according to the ratio which the number of miles of such road completed in such county, municipal township, city or incorporated town, special road district, public water supply, fire protection and sewer districts or subdivision, except school districts, in which such road is located, shall bear to the whole length of such road in this state: * * * "
(Emphasis ours.)

You will note that the latter section does not specifically mention public library districts, although having enumerated numerous political subdivisions having the power to tax. We, therefore, believe that such failure to include public library districts within the enumerated political subdivisions to whom apportionment must be made of a pro rata part of the aggregate value of such railroads and similar public utilities precludes the State Tax Commission from making such apportionment thereto.

Prior to the amendment of this section found in Laws of 1941, page 695, and the subsequent reenactment of the section in its present form, Laws of 1945, page 1825, the section had been the subject of a judicial construction in State ex rel. Halferty v. Kansas City Power & Light Co., 145 S. W. (2d) 116. This was an action brought to subject certain distributable property of the utility company named as defendant to taxation for the benefit of a public water supply district. It was there contended that the State Tax Commission had the power to apportion to such political subdivision a portion of the total aggregate valuation of such public utility by reason of such public water supply district being a "municipal township." The Supreme Court rejected this contention, saying, l. c. 122:

"From the foregoing it appears the county court is not authorized to levy taxes upon the distributable property of railroads until the valuation thereof, as equalized and adjusted by the State Board of Equalization, has been certified to it, and may then levy for municipal townships, cities and

other local subdivisions only as by the statutes provided. This brings us to consideration of an insistence strongly urged by appellant, viz., that the water district should be regarded as a 'municipal township' within the meaning of these taxing statutes. It, of course, is not a county nor an incorporated city, town or village. * * * A municipal township may be, for some purposes and in a broad sense, a 'municipal corporation'--(we suggest this thought without deciding the question)--but, even if so, is a 'municipal corporation' necessarily a 'municipal township?' It is to be borne in mind that taxing statutes are construed strictly in favor of the taxpayer, bearing in mind that they should be applied with due regard to the apparent intention of the Legislature as expressed in the statute, with a view to promoting the apparent object of the legislative enactment. It will be noted that in all of the taxing provisions we have noted the words 'municipal townships' have been used. Nowhere are the words 'municipal corporations' used. Appellant says 'municipal township' is not defined by our statutes. We think its meaning, as used in the statutes we have quoted, is well understood and is clearly enough indicated as a subdivision of a county. * * * From these and other references in the statutes that might be made we think it too clear to admit of argument that when the Legislature used the term 'municipal townships' in the statutes above referred to it meant subdivisions of a county as that term is generally understood.

"It is suggested by appellant that when Sec. 10022, providing the method of taxing railroad properties, was first enacted such 'public corporations' as defendant water district did not exist and could not be specifically referred to, and, if we understand his argument, that the meaning of 'municipal township' should be extended or enlarged so as now to include such public corporations, since created. The term 'municipal townships' has been retained in the statutes. We must assume that it was purposely retained and intended to mean what it clearly does mean." (Emphasis ours.)

Honorable Clarence Evans

It is interesting to note that subsequent legislative enactments and amendments to the section as it was written at the time of the decision of the Halferty case, cited supra, in September, 1940, have only extended the provisions to include special road districts, public water supply, fire protection and sewer districts or subdivisions, and have not brought within the statute public library districts. In the absence of such legislative action, it is our thought that the principles enunciated in the Halferty case are still controlling with respect to public library districts.

CONCLUSION

In the premises, we are of the opinion that the State Tax Commission is not authorized to apportion to a public library district any part of the total valuation of the "distributable property" of a railroad or other similar public utilities.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General