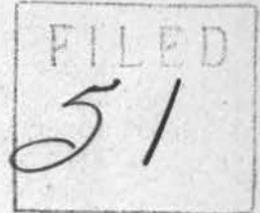


PROBATE JUDGES: Salary in counties with population from 30,000 to 70,000 determined by assessed valuation of real and tangible personal property and value of intangible personal property not included.

December 3, 1948



12-6

Mr. Howard B. Lang
Prosecuting Attorney
Boone County
Columbia, Missouri

Dear Sir:

We have received your request for an opinion of this department which request is as follows:

"An opinion is requested of your office as to whether or not the intangible tax collectible in Boone County should be included in the assessed valuation of the county in determination of the salary of the Probate Judge and the salary which can be paid to the employees of the office under the provisions of Senate Bill 198, Laws Missouri 1945, page 1514, et seq."

Section 2 of Senate Committee Substitute for Senate Bill No. 198, 63rd General Assembly (Laws 1945, page 1514) provides that in counties having a population of more than 30,000 and less than 70,000 the salary of the probate judge shall be fixed according to the assessed valuation of such counties. That section further provides:

"For the purpose of this Act, the assessed valuations of all property in the respective counties, as last determined by the commission or other body provided by law for the equalization of taxes as between the counties next prior to the election of such judges, shall be deemed to be the assessed valuations for the ensuing terms of such judges."

Section 15, of House Committee Substitute for House Bill No. 528, 63rd General Assembly (Laws 1945, page 1810) provides that it shall be the duty of the State Tax Commission to equalize the valuation of real and tangible personal property among the several counties in the state. In making such equalization the State Tax Commission is required to determine the true value of the real and tangible personal property in each county. The provisions regarding equalization refer only to real and tangible personal property and do not include intangible personal property.

Provision for taxation of intangible personal property was made by House Committee Substitute for House Bill No. 868, 63rd General Assembly (Laws 1945, page 1914). That tax is administered by the Director of Revenue and the rate is fixed at 4% of the yield of intangible personal property. There is no provision for valuation of such property. The only authority given the State Tax Commission in connection with that tax is to hear appeals from assessments made by the Director of Revenue when he determines that an insufficient return was made or no return at all was made.

Thus, it can be seen that the Legislature has provided for the State Tax Commission's determining the value of real and tangible personal property in each county in order to equalize valuation among all counties of the state. No valuation is made of intangible personal property and consequently that property is not included by the Tax Commission in fixing the value of property in the various counties. Inasmuch as the Tax Commission makes such determination only as to real and tangible personal property we feel that the Legislature in enacting the provision regarding the salary of probate judges intended to include only the property, the value of which is determined by the State Tax Commission, and, therefore, did not intend to include intangible personal property, the value of which is, in fact, not determined.

CONCLUSION

Therefore, this department is of the opinion that Section 2 of Senate Committee Substitute for Senate Bill No. 198, 63rd General Assembly (Laws 1945, page 1514) which provides for the fixing of salaries of probate judges in counties having a population of from 30,000 to 70,000 according to assessed valuation, refers only to the assessed valuation of real and tangible personal property, and does not include intangible personal property.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

RRW:mw