Copy to Jr. Smith 5/14

TAXATION: Assessor's duty to extend tax on omitted property in previous years, not county clerk's duty.
ASSESSORS: clerk's duty.

FILED
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April 29, 1948

5-7

Honorable Robert I. Meagher
Prosecuting Attorney
Madison County
Fredericktown, Missouri

Dear Mr. Meagher:

This is in reply to your letter of April 26, 1948, requesting the opinion of this department on the following question:

> "Should the assessor figure the tax that ought to have been assessed and paid in former years, or is it merely his duty to fix the value of the former years, and should the county clerk charge the amount of tax due for said omitted years?"

Your question is concerned with the proper interpretation and assignment of duties provided in House Substitute for House Bill No. 469, passed by the 63rd General Assembly and found in Laws of Missouri, 1945, at page 1789, as follows:

> "If by any means any tract of land or town lot shall be omitted in the assessment of any year or series of years, and not put upon the assessor's book, the same, when discovered, shall be assessed by the assessor for the time being, and placed upon his book before the same is returned to the court, <u>with all arrearages of tax which ought to have been assessed and paid in former years charged thereon</u>."
> (Underscoring ours.)

It is our opinion that the underlined portion of the statute should be interpreted to mean that it is the assessor's duty to extend the tax upon his assessment for the omitted years and place the same upon his book before it is returned to the court. Although normally it would be the clerk's duty to extend the tax under the provisions of Section 11048, Laws of Missouri, 1945, page 1958, we think that a fair construction of the language of this statute would seem to make the extension of omitted taxes the duty of the assessor, and not of the county clerk. Inasmuch as this is a departure from the procedure required by Section 11048, and it is not set out in too great detail in Section 20, we believe that any irregularity resulting from this procedure would probably be cured by the terms of Section 21 of House Substitute for House Bill No. 469, Laws of Missouri, 1945, at page 1789, which reads as follows:

> "An assessment of property or charges for taxes thereon shall not be considered illegal on account of any informality in making the assessment, or in the tax lists, or on account of the assessment not being made or completed within the time required by law."

Conclusion.

Therefore, it is the opinion of this department that it is the duty of the assessor to extend the amount of tax due on property omitted from the list in previous years before returning his book to the court.

Respectfully submitted,

JOHN R. BATY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

JRB:ml

(Previous opinion #124 answered by letter dated April 21, 1948.)