

Quick Reference

Car Values

October Issue of NADA—Average trade in value unless less than 2 years of age.
Sec 137.115.9

Delinquent

Sec 140 Collection of Delinquent Taxes

Penalties

Failure to receive a tax bill does not relieve tax payers from paying on time Sec 52.240

Sec 52.240 List of approved excuses for not declaring timely

See Sections 137.280, 137.345, 137.505, 139.100 140.100, 139.100

Erroneous

It is not a valuation issue.
How to Address Errors:

After taxes are paid: 52.240.2 RSMo
Before taxes are paid: 137.270 RSMo
Procedures 139.031 -

Military

Declare and pay in your state of domicile
Delinquency -139.100 exception for military
No exemption for military or POW

Payments

For payment plans there must of a county ordinance providing for it Sec. 139.052

Prorating

Statutes only provide for taxation on January 1. Mo does not prorate if you move out of state. Occupancy ordinance provides for putting on the tax roll or removing mid year. 137.075

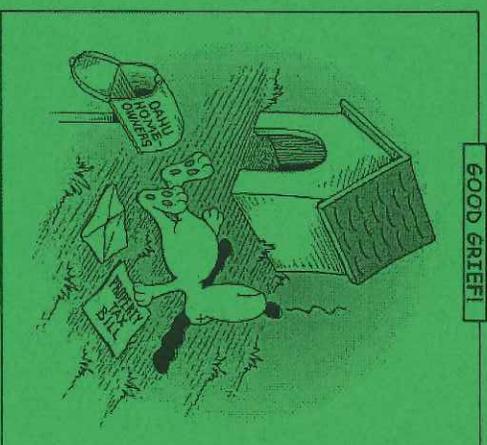
Situs

Section 137.090 137.095

Tax Date

January 1. 137.075

2016



Personal Property Reference

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IMPORTANT DATES

Jan. 1	Tax Liability Date	137.075, 137.080
March 1	Assessment List Due	137.280, 137.345, 137.495
March 31	Motor Vehicle List Due from DOR	137.116
May 1	Report Commercial Aircraft	155.020
June 15	Last Day to Mail Impact Statements	137.180, 137.355 137.490
June— 3rd Mon- day	First Class County BOE appeals due unless extended	137.385
July 1	Books Closed	137.245, 137.335, 137.375, 137.490, 137.510
July 1	All BOEs may meet in reassessment year	138.010, 138.090, 138.170
July—1st Monday	First Class BOEs, City of St. Louis meet	138.090, 138.170
July 2nd Monday	Appeal to BOE due in remaining coun- ties	137.275, 138.180
July—3rd Monday	Counties of 2nd, 3rd, 4th Class BOE meet acting as BOA	138.010, 138.050
July 31	BOEs in most counties end business	138.050, 138.100
Aug—4th Saturday	BOE in charter and City of St. Louis end business	138.050, 138.100, 138.170
Sept 30	Appeals due (or 30 days after decision of the BOE or notice of impact)	138.110

NOTES

The form consists of a large rectangular box. At the top of the box is a decorative border with a repeating pattern of rounded, interlocking shapes. Below the border are seven horizontal lines, evenly spaced, intended for handwritten notes.

ABATEMENTS AND PERSONAL PROPERTY

Only one economic development plan, Chapter 100, allows for the abatement of property tax on personal property. Tax Increment Financing, Enterprise Zones, Enhanced Enterprise Zones, and Urban Redevelopment Corporations all allow for the abatement of real property tax (or diversion of taxes in the case of TIFs), but do not and cannot affect the assessment and collection of personal property tax.

Chapter 100 abatements are technically exemptions. The county or city legally owns the real and/or personal property so that no taxes are due upon it. Generally, the development agreement requires some sort of payment in lieu of property tax which is less than the property tax would be if the property were taxable.

AIRCRAFT ASSESSMENT

Commercial aircraft which are owned by airline companies are state-assessed by the State Tax Commission. Small aircraft are assessed by the local assessor similar to other personal property. However, a special procedure exists for assessing **aircraft not owned by airline companies** which when fully equipped for flight have a maximum certified gross take-off weight of **over three thousand pounds**. The procedure for assessing these planes and appealing such assessments, set out in Section 140.040, is as follows:

Upon the return of the personal property list to the local assessor (generally **March 1**) the taxpayer notifies the assessor of the taxpayer's claim of "commercial aircraft."

By **May 1**, the assessor provides the State Tax Commission with any information necessary for the State Tax Commission to assess the aircraft.

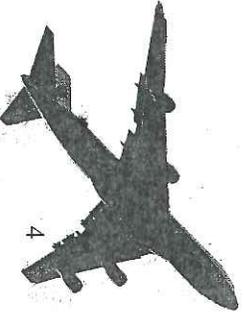
The State Tax Commission may require further information from the taxpayer.

The State Tax Commission values the aircraft and allocates Missouri's share of the value based upon the ratio of Missouri miles flown to the total miles flown.

By **June 15**, the State Tax Commission certifies the allocated values of aircraft to the taxpayers and appropriate county clerks.

By **August 15**, any appeals of the certified values must be lodged with the State Tax Commission.

Outside the appeal process, the State Tax Commission may correct an erroneous certified value or certify the value of non-airline commercial aircraft on or before **September 1** (12 CSR 30-2.021).



Write Offs

At every annual settlement made by a collector of the revenue after this chapter shall take effect, all delinquent real estate and **delinquent personal tax lists** and back tax bills for taxes on real estate and **tangible personal property** shall be carefully examined by the board of equalization and if there appear thereon any back tax bills which have appeared thereon for a period of **five years** or more which, in the opinion of a majority of said board, are too small to justify the expense of suit or foreclosure, or which are against exempt property, or which are against property which is not worth the taxes, interest and cost, and cannot be compromised as provided by law, the same shall, upon order of such board or a majority thereof, be stricken from such delinquent real estate or back tax books and the tax bills therefore shall be canceled by the collector. Section 140.130

In slight contrast, subsection 140.730.3, with emphasis added, reads:

For the purpose of this chapter, personal tax bills shall become delinquent on the first day of January following the year the taxes are due, and suits thereon may be instituted on and after the first day of February following, and within three years from said day. If the collector, after using due diligence, is unable to collect any personal property taxes charged in the delinquent tax list **within three years** following the year the taxes are due, **the collector may remove such personal property taxes from the delinquent or back taxes books** in the same manner as real estate is removed under section 137.260, RSMo [i.e. via the county commissioner's order]. Such abated amounts shall be reported on the annual settlement made by a collector of revenue.

Taxes on personal property are a personal debt. Section 140.730 RSMo.

WAIVER —

What is a "statement of non-assessment?"

A statement of non-assessment, also referred to as a waiver, is a document issued by the county collector, or in some counties by the assessor, in lieu of a personal property tax receipt when the property owner owes or owed no taxes for the tax year in question.

Under what circumstances is a statement of non-assessment issued?

Such a statement is issued if the property owner owed no personal property taxes for the tax year in question. Most generally, this occurs if the person was a Missouri resident, but owned no taxable personal property on January 1 of the tax year, or the person was not a resident of Missouri and had no taxable property in Missouri on January 1 of the tax year.

Department of Revenue

301.025. 1..... if the applicant is an organization described pursuant to subdivision (5) of section 137.100 or subsection 1 of section 137.101, the application is accompanied by a document, in a form approved by the director, verifying that the organization is registered with the department of revenue or is determined by the Internal Revenue Service to be a tax-exempt entity. If the director of the department of revenue has been notified by the assessor pursuant to subsection 2 of section 137.101, that the applicant's personal property is not tax exempt, then the organization's application shall be accompanied by a statement certified by the county collector or collector-treasurer of the county in which the organization's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the organization.....



APPEALING PERSONAL PROPERTY ASSESSMENTS

Taxpayers may appeal their personal property valuation until 12/31 or 30 days after receiving notice of their assessment.

Under State Tax Commission rule **12 CSR 30-3.010(1)(B)**, if the assessment is an initial assessment or an increase over a previous assessment and the assessor failed to notify the taxpayer of the assessment in time to appeal to the board of equalization (BOE), then the taxpayer may file an appeal directly with the State Tax Commission no later than December 31st or within 30 days after the county mailed the tax statement, whichever date is later. Because STC notice to the collector may not arrive until after the taxpayer pays the taxes, the taxpayer should provide the collector a protest letter when paying the taxes.

If the assessor assesses for prior years—even if the delayed assessment was due to the taxpayer not reporting—the taxpayer may still appeal the prior year assessments.

So, generally, there are four scenarios:

APPEAL TO BOE THEN STC—The taxpayer receives notice of the assessment either by mailed notice, informal notice, or last year's bill, appeals to the BOE before the deadline, then if dissatisfied with BOE decision, appeals to STC.

NO APPEAL—If notice was given of the assessment at least 30 days before the appeal deadline to the BOE and the taxpayer did not lodge such an appeal, the taxpayer has no avenue for appealing.

NO APPEAL—If the assessment is not a new or an assessment that increased from last year's and the taxpayer did not appeal to the BOE, the taxpayer has no avenue for appealing.

APPEAL DIRECTLY TO STC—If the assessment is a new or an assessment that increased from last year's and the taxpayer did not receive notice thirty days before the deadline for filing with the board, he or she may appeal

ATVs AND UTILITY VEHICLES (Ag Classification)

Taxability--Under Missouri law, "all property, except such as is specifically exempted by the Constitution and the statutes enacted pursuant thereto, is subject to taxation." *Iron County v. State Tax Commission*, 437 S.W.2d 665, 668 (Mo. 1968). Nothing in the law exempts ATVs or utility vehicles from property tax.

Classification--Whether or not off-road utility vehicles such as the John Deere Gator, Kawasaki Mule, and Polaris Ranger are farm machinery and assessed at 12% of market value (pursuant to section 137.115.3, RSMo) must be decided on a case-by-case basis depending upon use. The Commission has relied on section 144.030.22, RSMo, a sales tax statute, for its definition of farm machinery. The pertinent part of that section reads:

As used in this subdivision, the term "farm machinery" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon and lubricants used exclusively for such farm machinery and equipment and one-half of each purchaser's purchase of diesel fuel therefore which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to live-stock or poultry to be sold ultimately in processed form at retail.

If such vehicles meet the three criteria above, the farm machinery assessment would be appropriate.

VALUATION GUIDE—Automobiles

Subsection 137.115.9, reads, in part:
The assessor . . . shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication.

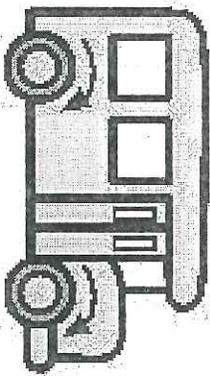
The assessor shall not use a value that is greater than the average trade-in value in determining the true value of the motor vehicle without performing a physical inspection. For vehicles 2 years old or newer from the model year, the assessor may use a value other than average without performing the inspection.

The Commission has always advised that such value should be adjusted if a vehicle has characteristics existing on January 1, such as high mileage or damage that would make the book value inaccurate. Understandably, many assessors do not want to vary from the book in that it opens the door for others to challenge their values.

TRAILERS IN INTERSTATE COMMERCE—IRPs
See 137.090 RSMo. (2013)

Trailers used in interstate commerce presents some special problems for assessors. Truck owners are normally not required to report these trailers or their mileage to the Highway Reciprocity Commission, and many truckers own more trailers than they do tractors or trucks, making "pairing" the trailers with the trucks difficult. To ensure that trailers throughout the state are being uniformly assessed, we are issuing the following guidelines:

1. Under Sect. 137.090 the value of all trucks & trailers used in interstate commerce must be apportioned for property tax purposes. The apportionment is the miles traveled in Missouri to the miles traveled in the US.
2. If the owner can provide specific mileage for a trailer or fleet of trailers, that mileage should be used for apportionment. For example, if an owner records the miles a trailer travels and one-tenth of the total miles are traveled in Missouri, then Missouri's apportioned share of the value is 10%.
3. If the owner does not record the miles of the trailers separately from those of the trucks (and it is our understanding that most do not), pair the trailers with the trucks. Then, apply the apportionment to the trailer which corresponds to the truck with which it is paired. Or, if the apportionment for the trucks is made on a fleet basis, rather than individually, apply the fleet apportionment percentage for Missouri to the trailers.
4. If the owner owns more trailers than trucks, apply the apportionment factor which is applied to the truck or fleet of trucks. For example, if the owner has 5 trucks but 8 trailers and 50% of the trucks' miles are in Missouri, apportion 50% of the value of the trailers to Missouri.



Buses might be
IRP vehicles as
of 2016.

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AUTHORITY TO TAX

Constitution

Taxes may be levied and collected for public purposes only, and shall be uniform upon the same class or subclass of subjects within the territorial limits of the authority levying the tax. . . Art. X, Section 3, Mo. Const.

All taxable property shall be classified for tax purposes as follows: class 1, real property; class 2, tangible personal property; class 3, intangible personal property. . . Art. X, Section 4(a), Mo. Const.

Property in classes 1 [real property] and 2 [tangible personal property] and subclasses of those classes, shall be assessed for tax purposes at its value or such percentage of its value as may be fixed by law for each class and for each subclass.

Property in class 3 [intangible personal property] and its subclasses shall be taxed only to the extent authorized and at the rate fixed by law for each class and subclass. . . Art. X, Section 4(b), Mo. Const.

Statutes

Every person owning or holding real property or tangible personal property on the first day of January, including all such property purchased on that day, shall be liable for taxes thereon during the same calendar year. 137.075 RSMo.

Real estate and tangible personal property shall be assessed annually at the assessment which commences on the first day of January. . . 137.080, 137.115.1, RSMo.

Case Law

Under Missouri law "all property, except such as is specifically exempted by the Constitution and the statutes enacted pursuant thereto, is subject to taxation." *Iron County v. State Tax Commission*, 437 S.W.2d 665, 668 (Mo. 1968).

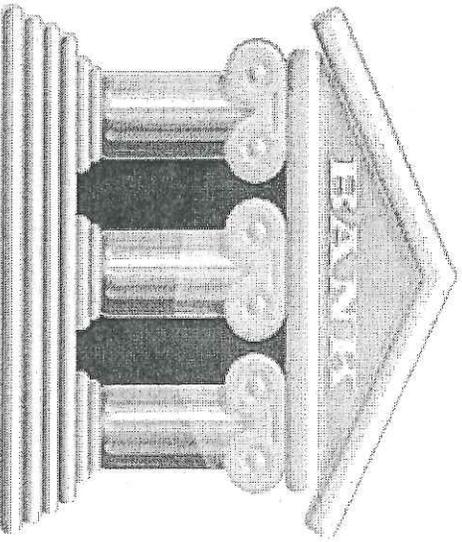
BANKS

Banks pay a franchise tax rather than personal property tax. (Sec 148.110)

Keep in Mind:

Personal Property Leased to Others— Personal property is taxable if it is under the "exclusive control" of the lessee and is not attached to or functionally a part of the bank building. Section 148.020, RSMo Supp. 2009. An example: leased automobiles are taxable but safe deposit boxes are not taxable as personal property leased to others.

Personal property of Savings and Loans and Credit Unions is taxable.



TAX LIABILITY FOR PERSONAL PROPERTY IS PERSONAL DEBT

Taxes on personal property, unlike real property, create a personal debt. See section 140.730. If a taxpayer owns a car on January 1 and sells it or moves out of the state on, say, January 2, he or she is liable for the taxes on that car for the entire year. Conversely, if a taxpayer buys a car on January 2 or moves into the state with the car on January 2 or later in the year, no taxes are owed on the car for that tax year.

If a business sells property, whether that business is incorporated or not, the seller, assuming the seller owned the property on January 1, owes the taxes for that year. Unlike real property, the taxes do not run with or follow the property. The liability is the same as if one individual sold a car to another after January first. The seller is still responsible for that year's taxes on that car.

If, on the other hand, a business buys an entire corporation, it is buying the entity and assumes the debts—including the taxes.

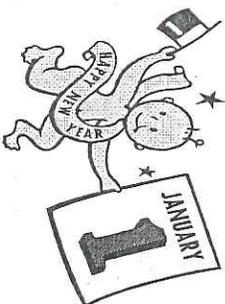
TAX DAY

Section 137.075 states:

Every person owning or holding real property or tangible personal property on the first day of January, including all such property purchased on that day, shall be liable for taxes thereon during the same calendar year.

With only a few minor exceptions, January 1—tax day—is the valuation date, and establishes ownership, situs and taxability. *Missouri has no statutory provision for prorating taxes (other than the limited instance of the Occupancy Law, section 137.082, pertaining to residential real property).* Therefore, if a taxpayer owns a car on January 1 and sells it or moves out of the state on, say, January 2, he or she is liable for the taxes on that car for the entire year. Conversely, if a taxpayer buys a car on January 2 or moves into the state with the car on January 2 or later in the year, no taxes are owed on the car for that tax year.

Personal property does not have to be in the jurisdiction on January 1 to be taxable, only that it must be more or less permanently located in the taxing jurisdiction. Sections 137.090, 137.095, and *Buchanan County v. State Tax Commission*, 407 S.W.2d 910 (Mo. 1966).



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BOATS-DOCUMENTED VESSELS TAXABLE

There is a common misconception by boat owners that if their vessel is documented by the Coast Guard, it is exempt from property tax. Nothing in the statutes exempts such vessels documented by the Coast Guard from the property tax. Section 306.016.2, RSMo provides that documented vessels shall "not be liable for the payment of any state or local sales or use tax on the purchase." Under Missouri law, all property is taxable unless exempted by the constitution or statute. Documented vessels are taxable. This issue arose frequently in 2007 because in 2006 the law, subsection 306.030.8, RSMo, changed (effective 2007) to require a property tax receipt when licensing boats. However, documented vessels as well as other boats have always been taxable.

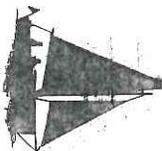
BOATS—Tax Situs

Section 137.090, states generally that property owned by an individual should be assessed where the individual resides. Two exceptions are that houseboats and cabin cruisers should be assessed where they are located. Missouri statutes do not define houseboats and cabin cruisers. When left with no statutory or case law guidance, courts look at the plain meaning of the terms. See below.

CABIN CRUISERS AND HOUSEBOATS DEFINED

Using the American Heritage Dictionary of the English Language (3rd ed.), Merriam-Webster, and Wikipedia, it seems the cabin cruiser, generally at least, is a more conventional boat style with living quarters; whereas, a houseboat is traditionally built on a barge, but also carries living quarters. The common element appears to be the living quarters, which usually includes a bathroom, kitchen, and bed. So, if a vessel contains living quarters, it qualifies as a houseboat or cabin cruiser and should be reported to the assessor in the county where it is located.

9



BUSINESS PERSONAL PROPERTY—Section 137.122 RSMo

Definition: [T]angible personal property which is used in a trade or business or used for production of income and which has a determinable life of longer than one year except that supplies used by a business shall also be considered business personal property . . .

Valuation: each assessor shall value depreciable tangible personal property by applying the class life and recovery period to the original cost of the property.

Class Life: Determined using the MACR tables of IRS

Depreciation: see table

The statute specifically states that the following property is NOT business personal property:

- livestock,
- farm machinery,
- grain and other agricultural crops in an unmanufactured condition,
- property subject to the motor vehicle registration provisions of chapter 301, RSMo,
- property assessed under section 137.078,
- the property of rural electrical cooperatives under chapter 394, RSMo,
- property assessed by the state tax commission.

“Placed In Service” = “ready and available for its specific use”

Additional Information (1st Class Counties—Section 137.340 RSMo)

The taxpayer should file their declaration with any information requested by the assessor to permit a determination of value.

Type of Owner	Location of Property	Tax Situs	Legal Authority
Mo Resident	Missouri	Co. of residence	137.075, 137.090
Mo. Resident	Outside of Missouri	Not Taxable in Missouri	Case law
Not a Mo Resident	Missouri	County where property is located	Case law
Corporation	Missouri	County where it is located	137.095
Military, Mo is not HOR	Missouri	Not taxable in Missouri	50USC 571
Military, Mo is HOR	In or out of Missouri	In Missouri, county of residence	50 USC 571

**BUSINESS PERSONAL PROPERTY
DEPRECIATION TABLE**

SITUS

The personal property of an **individual**: who is a Missouri resident is assessed in the county in which the individual resides (at the owner's address). Except, houseboats, cabin cruisers, floating boat docks, and manufactured homes are assessed where they are located. Section 137.090.

The personal property of a **corporation** is assessed where the property is located. Corporate-owned interstate trucks must be assessed in the county in which they are based. Section 137.095.

Personal property more or less permanently located in **Missouri of a non-Missouri resident** is assessed where it is located. So, if a Kansas resident hangs a plane in Missouri more or less permanently, it is taxable in Missouri.

Personal property more or less permanently located **out-of-state by a Missouri resident is not taxable in Missouri**. So, if a Missouri resident hangs a plane in Kansas, more or less permanently, it is not taxable in Missouri.

Personal property of **military personnel** whose home of record is **Missouri is taxed in Missouri**.

Personal property of **military personnel and spouses** whose home of record is **not Missouri is not taxable in Missouri** (except business personal property).

YEAR	3 YR %	5 YR %	7 YR %	10 YR %	15 YR %	20 YR %
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	5.00	24.99	42.88	56.81	69.25	76.18
5	5.00	10.00	30.63	48.07	62.32	70.46
6	5.00	10.00	18.38	39.33	56.09	65.18
7	5.00	10.00	10.00	30.59	50.19	60.29
8	5.00	10.00	10.00	21.85	44.29	55.77
9	5.00	10.00	10.00	15.00	38.38	51.31
10	5.00	10.00	10.00	15.00	32.48	46.85
11	5.00	10.00	10.00	15.00	26.57	42.38
12	5.00	10.00	10.00	15.00	20.67	37.92
13	5.00	10.00	10.00	15.00	15.00	33.46
14	5.00	10.00	10.00	15.00	15.00	29.00
15	5.00	10.00	10.00	15.00	15.00	24.54
16	5.00	10.00	10.00	15.00	15.00	20.08
17 +	5.00	10.00	10.00	15.00	15.00	20.00

CLASSIFICATION AND LEVEL OF ASSESSMENT

Real Property

Real property includes the land and all growing crops, buildings, structures, improvements, and fixtures of whatever kind. Section 137.010 RSMo. Real property also includes other items set out in the statutes such as pipelines:

Residential: 19%
Agricultural: 12%
Commercial: 32%

Tangible Personal Property

Tangible personal property includes every tangible thing being the subject of ownership or part ownership whether animate or inanimate, other than money, and not forming part or parcel of real property as herein defined, but does not include household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place.

Personal property is assessed as follows:

Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone. 25%

Manufactured Homes (used as residences) 19%
Farm Machinery and Livestock 12%
Historic Cars and Planes 5%
Grain 0.5%
Motor Vehicles and all other personal property 331/3%

SITUS-ACQUIRING TAXABILITY IN THE STATE

How long must personal property be present in Missouri before it may be taxed? Unfortunately, there is no definite short answer. The general rule is set out in 71 Am Jur 2d ¶664 as follows:

[W]hen tangible personal property is permanently located in a state other than the state of the owner's domicile in such circumstances as to acquire a situs there for purposes of taxation, it is taxable there; in this situation, the state of the domicile of the owner, which affords no substantial protection to the property, has no jurisdiction to tax such property.

This rule is restated in *Bi Go Markets, Inc. v. Morton*, 843 S.W.2d 916, 919, 920 (Mo. 1992). For an actual situs to exist in Missouri:

1. There must be a continuous presence in this state which supplants the home state and, thus, allows Missouri to acquire taxing power over the personalty. *Peabody Coal Co. v. State Tax Commission*, 731 S.W.2d 837, 839 (Mo. 1987). The property must have a more or less permanent location or situs and more than a mere temporary presence. *Buchanan County v. State Tax Commission*, 407 S.W.2d 910, 914 (Mo. 1966).
 2. The due process requirements of the U.S. Constitution must be satisfied in that the tax must be related to the opportunities, benefits or protection conferred by or afforded by the taxing state. *Bi Go Markets*, supra.
- Obviously, with such amorphous judicial guidance, a solid answer to the question at hand is difficult. In the *Peabody Coal* decision, 31.8% of a plane's landings in Indiana did not establish a taxable situs there. In *Bi Go* and the likelihood of appeal becomes increasingly more likely the fewer months the property is present in Missouri.

REPORTING PERSONAL PROPERTY—LESSOR-LESSEE

When personal property is leased, the question sometimes arises as to who is responsible for reporting the property. Missouri statutes make it clear that tax liability may be placed either upon the owner or lessee. For example, section 137.340, RSMo (applying to first class counties) states in pertinent part:

Every person, corporation, partnership or association, subject to taxation under the laws of this state, **owning or controlling** tangible personal property taxable by any such county, . . . shall file with the assessor of the county an itemized return listing all the tangible personal property so owned or controlled on January first of each year, together with such additional information as required by the assessor to permit a determination of its value. (Emphasis added).

Similarly, section 137.495, applying to the City of St. Louis, states, in pertinent part:

Every person, corporation, partnership or association subject to taxation pursuant to the laws of this state and **owning or controlling** tangible personal property taxable by the cities shall file with the assessor of the cities a return listing all such tangible personal property so owned or controlled on January first of each year and estimating the true value thereof in money. (Emphasis added).

Section 137.075, RSMo states:

137.075. Every person **owning or holding** real property or tangible personal property on the first day of January, including all such property purchased on that day, shall be liable for taxes thereon during the same calendar year. (Emphasis added).

And, section 137.115.1, RSMo states in pertinent part:

The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or **under his or her care, charge or management**, taxable in the county. (Emphasis added).

DEATH

Assessment of property of a deceased person is always difficult, but the law requires the assessor to assess the property and collect taxes.

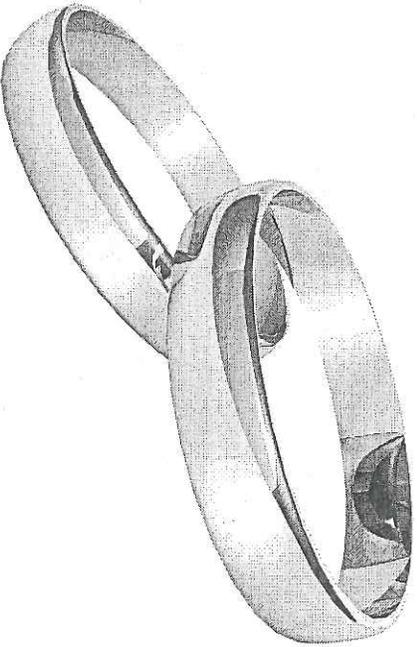
137.125 RSMo Procedure in case of absence from property and death—

1. If any person required by this chapter to list property shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office, or the usual place of residence or business of such person, a printed assessment blank and a printed notice, requiring such person to make out and mail or take to the office of said assessor, not more than 20 days from the date of such notice, a sworn statement of the property which he is require to list.
2. If any person dies prior to the time when the assessor calls for such list, the assessor shall deliver such assessment blank and printed notice to the executor or administrator of such deceased person, and such executor or administrator shall make out and deliver to the assessor such sworn statement of all the property of such decedent.
3. The date of leaving such notice and the name of the person required to list the property shall be careful noted by the assessor and if any such person shall neglect or refuse to deliver the statement, properly made out, signed and sworn as required, the assessor shall make the assessment as required by this chapter.

DIVORCE/SEPARATION

There is almost no guidance from the statutes or case law regarding who is responsible for personal property taxes when a couple separates or divorces (assuming the divorce decree doesn't spell it out).

However, the Attorney General (Moseley, Op. 120, April 30, 1981), has provided an opinion which ties property tax liability under these circumstances, to ownership. So, the wife or husband is not liable for any property in which she or he has no ownership interest. Where that is clear from the title, a waiver could be issued. Otherwise, the only other circumstance that would make a waiver appropriate would be if a judicial decree or order from the court assigned the property taxes for that year



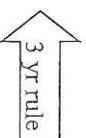
Refunds & Erroneous Assessments

Remember disagreements as to value are NOT erroneous assessments

Section 52.240 RSMo County Commission has authority to correct erroneous assessments (authorize refunds) after taxes have been paid. "4. Any taxpayer claiming that the county made an error or omission in determining taxes owed may submit a written request for a refund of penalties, interest, or taxes to the county commission or governing body of the county."

Section 137.270 RSMo County Commission has authority to correct erroneous assessments when taxes have not been paid

Section 139.031.5 RSMo "5. All the county collectors of taxes, and the collector of taxes in any city not within a county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax liability in the following taxable year and subsequent consecutive taxable years until the taxpayer has received credit in full for any real or personal property tax mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the collector. Such application shall be filed within **three years** after the tax is mistakenly or erroneously paid. The governing body, or other appropriate body or official of the county or city not within a county, shall make available to the collector funds necessary to make refunds under this subsection by issuing warrants upon the fund to which the mistaken or erroneous payment has been credited, or otherwise"



Cite 137.073.3 RSMo provides that school district may revise their levies to collect taxes lost due to the correction of an erroneous assessment

Penalties -& CERF 7% applies to the total

CERF's position is correct. As an example: a person owes \$100 in taxes and the taxes are due 12/31. If the taxes are not paid, the person would owe \$109.14 on January 1.
($\$100 \times 2\% = \102 ; $\$102 \times 7\% = \109.14) At the end of one year, the person would owe $\$126.26$ ($\$100 \times 18\% = 18$;
 $\$118 \times 7\% = \126.26)

Assessors (not charter or City) are required by section 50.1020, RSMo to keep a log concerning the penalty and the waiver of the penalties. Each year, to assure that counties are administering the penalty correctly and fairly, CERF hires independent auditors to examine the logs kept by assessors (and the CERF related functions of county officers) in a dozen randomly selected counties. These auditors request that the following information be contained in the log:

- The taxpayers who filed their assessment lists late;
- The date the list was finally received;
- The taxpayers who were penalized;
- The taxpayers who had penalties waived; and
- The reason for the waiver for each one waived.

Additionally, the *total* number of assessment lists returned late, as well as the *total* number of penalties waived should be available so the auditors can make the calculation of what percentage of penalties were waived in the county.

Assessors are encouraged to keep accurate logs and to cooperate with the auditors to assure that these penalties are properly administered and the funds delivered to the County Employees' Retirement Fund for the benefit of its participants.

EXEMPT PROPERTY

The authority for property tax exemptions is located in Article X, Section 6, of the Missouri Constitution of 1945 and at Section 137.100, RSMo. These sections list a variety of exemptions. The types of exemptions that frequently require the most research and analysis are:

- State, city, county or other political subdivision;
- Nonprofit cemeteries;
- Agricultural and horticultural societies
- Religious worship
- School and colleges
- Used for charitable purposes
- Household goods, furniture, wearing apparel and articles of personal use and adornment
- Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision or to any religious, educational, or charitable organization which has obtained an exemption from the payment of federal income taxes, provided the motor vehicles are used exclusively for religious, educational, or charitable purposes;
- Veterans' organizations
- Solar Energy Systems not for resale

See page 36—DOR issuing waivers for exempt property



FIGURES

Under Missouri case law, what would otherwise be personal property can be changed to real property, i.e., a fixture, under certain circumstances. The court decisions have been somewhat unpredictable in this area, but the basic test for determining whether or not something is a fixture has been fairly consistent. In *Cuivre River Electric v. State Tax Commission*, 769 S.W.2d 431 (Mo. 1989), the Missouri Supreme Court held that the elements to be studied are:

1. Whether the property has been annexed to the real property;
2. Whether the property has been adapted to fit its location; and
3. Whether the intent of the owner, as evidenced by acts and conduct, is that the property should remain permanently.

If these three elements are satisfied, the property in question should be assessed as real rather than personal property.

PENALTIES (does not apply to the City of St. Louis)

Sections 137.280, 137.340 and 137.345. Taxpayers' personal property lists shall be delivered to the assessor between January 1 and March 1 each year.

Between March 1 and April 1, the assessor shall send a second notice to taxpayers who were originally sent a form but whose lists were not returned by March 1. If the lists are not then returned by May 1, the following penalties apply:

Assessed Valuation	Penalty
0-\$1000	\$10
\$1001-\$2000	\$20
\$2001-\$300	\$30
\$3001-\$4000	\$40
\$4001-\$5000	\$50
\$5001-\$6000	\$60
\$6001-\$7000	\$70
\$7001-\$8000	\$80
\$8001-\$9000	\$90
\$9001 and above	\$100

In all political subdivisions (except Clay County and the City of St. Louis) the penalty shall be omitted if the assessor is satisfied the neglect falls into one of the following categories:

1. The taxpayer is in military service and is outside the state;
2. The taxpayer filed timely, but in the wrong county;
3. There was a loss of records due to fire, theft, fraud, or flood;
4. The taxpayer can show the list was mailed timely as evidenced by the date of postmark;
5. The assessor determines that no form for listing personal property was mailed for that tax year;
6. The neglect occurred as a direct result of the actions or inactions of the county or its employees or contractors.

See the following regarding the log

OMITTED PERSONAL PROPERTY

The assessor shall list, assess and cause taxes to be imposed upon omitted taxable personal property in the current year and in the event personal property was also subject to taxation in the immediately preceding three years, but was omitted, the assessor shall also list, assess and cause taxes to be imposed upon such property. Sec. 137.130

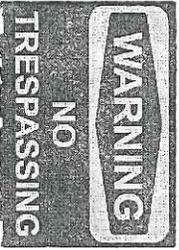
It shall be the duty of the county commission and assessor to place on the assessment rolls for the year all personal property discovered in the calendar year which was taxable on January first of that year. Section 137.280.3

oo

Section 137.130 states, with emphasis added:

If no list of taxable personal property has been given, the assessor or an employee of the assessor shall have lawful right to enter into any lands and make any examination and search which may be necessary to assess such real property.

The assessor or an employee of the assessor shall not enter the interior of any structure on any real property as part of the inspection to assess such property without permission.

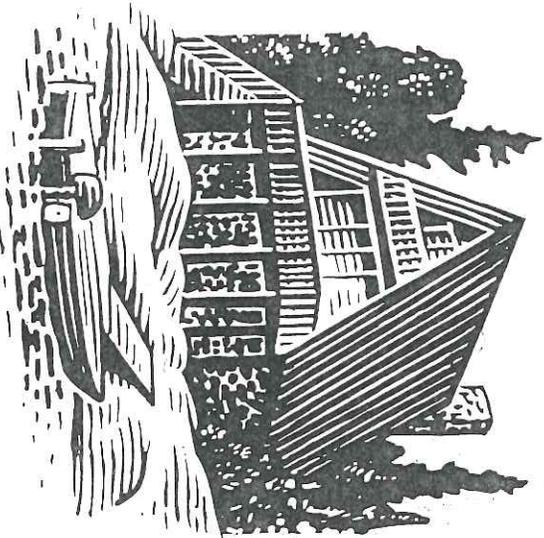


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FLOATING BOAT DOCKS

Sec. 339.503 defines boat dock or watercraft slips for the purposes of the Real Estate Appraisers Act as a defined area of water, including riparian rights to use such area, which is part of a boat dock serving a common interest community, including condominiums and villas--the exclusive right to use the dock being granted to an owner of real estate in the common interest community.

This classification, by its own terms is for the purposes of real estate appraisers. Section 137.090 still lists floating boat docks in that personal property statute. It is the opinion of the State Tax Commission that the provisions of section 339.503 do not control or change the classification of boat docks for property tax purposes



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INVENTORY OF RENTAL FACILITIES

The Missouri Constitution (Art. X, Sect. 6) exempts from ad valorem property tax a merchant's goods, wares and merchandise held for sale. Usually, it is easy to distinguish between merchandise held for sale and rental or leased property. However, property subject to short-term rental, which is also available for sale, is more difficult to address.

In 1988, the State Tax Commission addressed the assessment of such property in *Beagle's Rental Center v. Quick*. The decision held that property, which is both rented and held for sale, should be exempt from taxation if the following criteria are met:

1. The owner posts conspicuous signs on the premises indicating that the property is for sale, and the purchase price of any particular piece of equipment is available.
2. A list of reasonable purchase prices (i.e. not above manufacturers' suggested retail) is available at all times.
3. Rental contracts and agreements contain language that the "rental property" may be purchased.

In *Empire Gas v. Raines*, STC Appeal No. 91-730043 (2/19/93) [1993 WL 49756 (Mo. St. Tax. Com.)], the State Tax Commission held that the property also must be available for sale. In *Midwest Aerials & Equipment, Inc. v. King*, STC Appeal number 00-20002, the Commission held that because 20% of the equipment was available for sale at any given time, 20% of the value of the equipment was exempt from property tax. Neither party appealed the *Midwest* decision to circuit court.

See the following page for Legislative Updates in 2015

MILITARY & VETERANS

MILITARY -

The Service Members Civil Relief Act 50 USC App 571 provides that people do not lose their residence due to military service. The act does not relieve them from taxes but relieves them of being burdened by paying multiple governments taxes. We treat those in the military as if they still reside in their home state and county.

In November 2009, the President signed the *Military Spouses Residency Relief Act*, the act provides, among other things, that the military spouse shall neither lose nor acquire a residency for tax purposes by reason of being absent or present in any taxing jurisdiction solely to be with the service member in compliance with military orders if the residence is the same for the service member & spouse.

The change in the federal law now requires a vehicle (or, other personal property) not to be taxed in Missouri if it is owned by the spouse of a service member whose home of record is not Missouri, and whose residence is the same as the service member's, even if the property is owned individually by the spouse. Conversely, personal property is taxable in Missouri if it is owned by the spouse of that service member stationed outside the state of Missouri but whose home of record is Missouri, even if the property is located outside Missouri, provided the residence of the spouse is the same as the service member's.

VETERANS -

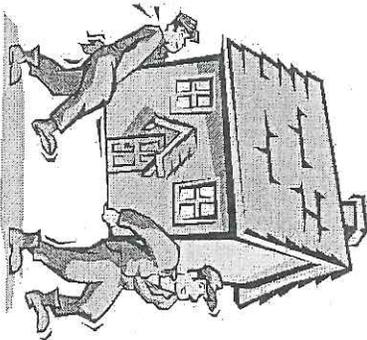
There is no exemption for personal property. There is an exemption for a primary residence if the person was a POW + 100% military related disability.

MANUFACTURED HOMES

Subsection 137.115.6, states that a manufactured home shall be considered real estate if it meets the definitions found in Sec 442.015, which states a manufactured home shall be deemed real estate when all the following have occurred:

1. The home is permanently affixed to land which means it is anchored by attachment to a permanent foundation, constructed in accordance with applicable state and local building codes and manufacturer's specifications, and connected to residential utilities such as water, gas, electricity, or sewer or septic service;
2. An affidavit of affixation has been recorded; and
3. A certified copy of the affidavit of affixation has been delivered for filing to the director of revenue.

If the manufactured home has been converted to real estate, it is to be assessed as a real property improvement. Section 137.115.6, remains substantially unchanged and still requires that a manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.



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Section 137.018 RSMo. – Short Term Rental

Short term rental property under NAICS codes 532412 and 532210 is inventory. It includes property rented for a period less than 365 days, or for an undefined period, or for an open ended period of time.

NAICS 532412 – This industry comprises of establishments primarily engaged in renting or leasing heavy equipment without operators that may be used for construction, mining, or forestry, such as bulldozers, earthmoving equipment, well drilling machinery and equipment, or cranes.

It does not include leasing with loan provisions

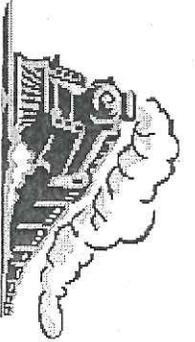
NAICS 532210 -This industry comprises establishments primarily engaged in renting consumer electronics equipment and appliances, such as televisions, stereos, and refrigerators. Included in this industry are appliance rental centers.

Office machinery such as computers are not included.

FOR RENT

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IN TRANSIT



Personal property in transit through this state is personal property which is moving in interstate commerce through or over the territory of the state of Missouri. The property may be in Missouri for transit to a final destination outside of the state, whether such destination is known or specified when transportation begins or afterward. Such property is deemed to have acquired no situs in this state for any purposes of taxation. *Section 137.910 RSMo.*

The property may be deemed to have come to rest within a state and become subject to the power of the state to impose a non-discriminatory property tax. The crucial question to be settled in determining whether property moving in interstate commerce is subject to local taxation is that of its "continuity of transit." *Carson Petroleum Co. v. Vial*, 279 U.S. 95, 101, 49 S.Ct. 292, 293, 73 L.Ed. 626, 629 (1929).

The general rule is that the interstate transit is continuous and the property is not subject to local taxation where the storage or delay is due to transportation, safety, or natural cause reasons. This immunity from local taxation is lost where the interruption is due to an intentional detention for the beneficial and business purposes and convenience of the owner. *Independent Warehouses, Inc. v. Scheele*, 331 U.S. 70, 67 S.Ct. 1062, 91 L.Ed. 1346 (1947); *Enterprise Products Co. v. Whitman*, 364 So.2d 634 (La.App. 2d Cir. 1978) writ denied 366 So.2d 916 (La.] 1979). "The question is always one of substance, and in each case it is necessary to consider the particular occasion or purpose of the interruption during which the tax is sought to be levied." *Independent Warehouses v. Scheele*, 331 U.S. 70, 73, 67 S.Ct. 1062, 1065, 91 L.Ed. 1346, 1353 (1947).

If the property has come to rest within the State, being held there at the pleasure of the owner, so that the owner may dispose of it either within the State, or for shipment elsewhere, as his interest dictates, it is deemed to be a part of the general mass of property within the State and is thus subject to its taxing power. *Minnesota v. Blasius*, [supra], 290 U.S. at 10, 54 S.Ct. at 371. *Seabrook Corp.*, supra, 195 Ga.App. at 731-732, 394 S.E.2d 796.

LIVESTOCK DEALERS

Livestock is generally taxable as personal property at 12% of its value. However, a narrow exception does exist. If the livestock is purchased and held temporarily for resale by a registered livestock dealer who is registered pursuant to section 276.600 to 276.661, the property is the equivalent of inventory and may not be assessed and taxed. All other livestock that is held on January 1 is taxable.

Missouri Livestock Dealer Law defines "livestock" as "cattle, swine, sheep, goats, horses, and poultry, and other domesticated or semi domesticated or exotic animals." Section 276.606(5) (Emphasis added). Thus, exotic animals fall within the broad definition of livestock.

In *Ensminger v. Burton*, 805 S.W2d 207, 210, (Mo. App. W.D. 1991), the court dealt with the issue of cattle being inventory in a non-property tax case. The Court, citing *United States v. Hext*, 444 F.2d 804 (5th Cir. 1971), said that livestock transferred by a farmer to a marketing agency for sale—that is, to a person not engaged in farming operations—ceased to be farm products and become inventory.

If the person purporting to be a livestock dealer is, in fact, not a registered livestock dealer, he is in violation of the law (sections 276.611 and 276.621) and, accordingly, cannot receive an inventory exemption in that he is not a lawful livestock dealer

