

State Tax Commission Annual Report – 2012

CHAPTER I

THE HISTORY, NATURE AND FUNCTION OF THE STATE TAX COMMISSION

A. History of the State Tax Commission.

The Missouri Constitution of 1945 created the State Tax Commission of Missouri in its current form. Article X, Section 14 of that constitution requires the General Assembly to create a tax commission for the purpose of performing three (3) functions:

- (1) Equalization of assessments as between counties;
- (2) To hear appeals from local boards of equalization in individual assessment cases; and
- (3) To perform such other duties as may be prescribed by law.

Prior to 1945 and the adoption of the most recent Constitution of Missouri, the function of the Commission was divided between two bodies: the State Tax Commission, which was created in 1917, and had authority over individual appeals in assessment cases, and supervisory authority over assessing officials, and the State Board of Equalization which performed the function of equalization of value among counties. The 1945 Constitution merged these bodies into one, creating the current constitutional and statutory entity now called the State Tax Commission of Missouri.

B. Nature and Organization of the State Tax Commission.

The State Tax Commission is constituted of three members, chosen from the two major political parties, appointed by the Governor with the advice and consent of the Senate. The Commissioners hold staggered terms of six years. Section 138.190, RSMo. A majority of the commissioners must concur before the Commission can make a decision on any matter before it. Section 138.240, RSMo.

The staff of the Commission is divided into five sections:

- (1) Administration;
- (2) Legal;
- (3) Ratio Study;
- (4) Original Assessment; and
- (5) Technical Assistance.

- (1) The Administration Section is under the direction of the Administrative Secretary, who is charged with the statutory duty to superintend the clerical business of the Commission, handle correspondence, supervise general office procedures, implement Commission policy, and perform such other duties as the Commission prescribes.

State Tax Commission Annual Report – 2012

- (2) The Legal Section is under the direction of the Chief Counsel, who is charged with the responsibility to render legal advice to the commission and coordinate litigation matters with the Attorney General's Office. The Chief Counsel also has the duty of overseeing the attorneys who conduct hearings in assessment appeals before the Commission and assisting the Commission in the preparation of decisions and orders, including findings of fact and conclusions of law, in individual assessment appeals.
- (3) The Ratio Study Section is charged with conducting ongoing ratio studies to verify assessment levels for equalization purposes. The section has a manager, an assistant manager, and a statistician as well as field personnel.
- (4) The Original Assessment Section is charged with the Commission's annual duty to assess distributable property held by public utilities, railroads and other related entities.
- (5) The Technical Assistance Section is composed of a manager, assistant manager, and field staff whose primary duty is to assist counties in implementing their maintenance program and to provide additional assistance in any matters pertaining to assessment practices.

The State Tax Commission currently has 48 authorized employees to perform its constitutional and statutory responsibilities.

C. Functions of the State Tax Commission

- (1) Supervision of Assessment Practices and Equalization.

One of the primary tasks performed by the Commission is the supervision of assessing officers and assessment practices in the state.

Section 138.410.1 provides this connection:

"This commission shall exercise general supervision over all the assessing officers of this state, over county boards of equalization and appeal in the performance of their duties under this chapter and all other laws concerning the general property tax and shall institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations and individuals failing to comply with the provisions of this chapter, and of all laws relating to the general property tax."

Subsection 2 of Section 138.410 empowers the Commission to call upon the Attorney General or prosecuting attorneys in the state to assist it in enforcing the property tax laws in the courts.

In implementing its supervisory role, the Commission is in constant contact with the assessors of the state, communicating administrative, legal, appraisal and technical advice to assist assessors in the performance of their duties. This supervisory role is also evidenced by certain statutes relating to specific assessment areas. Under Section 138.235.2, the Commission is charged to see that leased tangible personal property in the state is properly taxed. In addition, a member of the Commission or some duly authorized representative thereof, must officially visit the several counties of the state at least once each year and inquire into methods of assessment. Section 138.415. The Commission also has the authority to convene a hearing concerning the assessment on any parcel in the state to ensure

State Tax Commission Annual Report – 2012

that all assessments have been made in compliance with law. Sections 138.460 and 138.470. However, it should be noted that the Commission is specifically prohibited from supervising "the fixing of any tax levied or to be levied" by any political subdivision or taxing authority in the state. Section 138.340.1.

One of the most important and far-reaching supervisory functions performed by the State Tax Commission of Missouri is the program for the statewide equalization of real property assessments. This program had its genesis in the Missouri Supreme Court Decision of *State ex rel. Cassilly v. Riney*, 576 S.W.2d 325 (Mo. banc 1979), wherein the Supreme Court of Missouri found the system of assessment in St. Louis County to be in violation of the uniformity provisions of the Missouri Constitution. The Supreme Court further stated that the State Tax Commission had the responsibility to resolve the assessment inequities in that county, and throughout the state where they exist, and possessed administrative powers commensurate with that task. In addition, the *Cassilly* case effectually overruled a long line of Missouri cases that held that the State Tax Commission had no authority over intra-county equalization of assessments, but could only exercise authority to equalize assessments on an aggregate basis as between counties.

The first mandated statewide reassessment program was completed and implemented in 1985. Subsequent to the completion of statewide reassessment, the State Tax Commission administers a two-year maintenance cycle in which property values are updated in each odd-numbered year. The two-year cycle commenced with the 1987 tax year.

(2) Assessment Appeals in Individual Cases

As previously noted, one of the constitutional duties imposed upon the Commission is the hearing of assessment appeals in individual cases. Every person who thinks himself or herself aggrieved by the assessment of property may appeal to the county board of equalization in person, by attorney or agent, or in writing. Such appeals shall be lodged with the county board of equalization on or before the second Monday in July (Section 137.275), except in first class counties, where appeals are due before the third Monday in June unless the board extends that deadline. Section 137.385.

The county board of equalization meets annually in every county and the City of St. Louis to consider such appeals. In most second class counties and counties of the third and fourth classes, the county board of equalization meets on the third Monday of July of each year to consider complaints filed by taxpayers. In first class counties and the City of St. Louis, the boards of equalization meet the first Monday in July (138.090) and operate until July thirty-first, except charter jurisdictions which operate until the fourth Saturday in August. Sections 138.050, 138.100, and 138.170. In years of general reassessment, the boards in all jurisdictions may begin meeting after July first. Sections 138.010, 138.090, and 138.170.

Appeals from the decisions of the board in all counties and the City of St. Louis must be filed with the Commission by September thirtieth of the year of assessment or within thirty days of the decision of the board of equalization, whichever is later. Sections 138.010, 138.460.2, and 12 C.S.R. 30-3.010. Appeals are generally heard by a hearing officer of the Commission. A record of the

State Tax Commission Annual Report – 2012

proceedings is prepared and a decision, including full findings of fact, conclusions of law, and an order to county officials, is thereafter issued. The decision of the hearing office may be appealed to the full Commission (section 138.432), and, under the provisions of Section 138.470.4 and Chapter 536, the Commission's final decision is reviewable by the circuit court in the county where the appeal originated.

(3) Original Assessment

Under Sections 137.022, 138.420, Chapters 151, 153 and 155, RSMo, the Commission performs its duty of original assessment of distributable property held by public utilities, railroads, freight line companies, airlines and related entities. Annually, the Commission receives a report from affected public utilities, railroads and airlines not later than April 15. Section 151.020.1; 155.020; 12 CSR 30-2.011. The Commission thereafter must "assess, adjust and equalize" the distributable property of these companies. Section 151.060.1.

The Commission also has the power of original assessment over all "real and tangible personal property in the possession of any assessing officer on January first." Section 138.420.4.

(4) Inter-County Equalization

Under Chapter 138 and the Missouri Constitution, Article X, Section 14, the State Tax Commission must equalize the aggregate valuation as between counties of certain "subclasses" of real and tangible personal property.

(5) Miscellaneous Functions

Pursuant to Section 53.255, the Commission certifies assessors who have completed a course of study concerning the assessment of ad valorem property taxes. Each assessor must complete a course of study approved by the Commission as a qualification for commencing or continuing in office.

The Commission has the general duty to study the tax laws and taxing systems of other states and make recommendations to the General Assembly on needed tax legislation, Section 138.380(4), as well as to give advice and opinions on all questions of doubt as to the true and intent meaning of the provisions of Chapter 138, relating to the equalization and review of tax assessments. Section 138.320. Also, the Commission has the authority to place omitted property on the assessment rolls any time during the tax year. Section 138.380(3).