

Concerns for State Tax Commission to address at conference

- 1) Discuss the process to set the productive level of Ag land (WK - Presentation)
 - a. Discuss why cash rent isn't considered in establishing production value
 - b. Give the history of production ag land value from reassessment until today
 - c. Discuss when ag land can be assessed at 12% of market value and then when it can go to 32% of market value
 - d. Discuss how you would explain the equity between tracts. If one were 12% of market with no income and that assessed value was three times that of actively producing ground.

- 2) Explain the process of the State Tax Commission going before the legislature to get budget approval (GR - Presentation)
 - a. Can the legislature strike certain lines in the budget?

- 3) Explain the role of the new liaison (GR - Presentation)

- 4) Cannabis, how assessed? (WK)

There has been no separate subclass created. Therefore, it would be within the Assessor's discretion to review these properties on a case by case basis to determine how to classify and value them, potentially classifying them similarly to other mixed use classifications.

- 5) Discuss Assessment Fund on the county level (JS)
 1. What monies are to be put into the fund
 - a. State reimbursement (JS)

Funding is appropriated by the Legislative body and part of the annual budget process. The STC stands ready to work with the Assessors on any additional funding and resources that may be available. The sources of funding for the Assessment fund would contain monies from state reimbursement, collections (% of total collections), general revenue from the county, and other sources such as the sales of data, maps, etc.
 - b. County withholdings
 - c. Sale of data
 - d. General Revenue
 - e. Etc.
 2. Who has control of account? (ASW)

The county commission has authority to use the account to pay for assessment-related expenses, including the expenses in the maintenance plan allowed under Section 137.750 as well as the salaries of the assessor, the clerks, deputies, employees and all costs and expenses of the assessor. For reference, see Section 137.725.

3. Should account be zeroed out? (ASW)

Whether the account goes to “zero” depends on whether the assessment fund has been used up to pay assessment-related expenses during the year. The source of assessment fund revenue is a combination of collection monies, county general revenue, and state reimbursements. The plain language of the statutes state that the fund must be used for assessment purposes; the plain language of the statutes do not authorize a county commission to transfer the amount of the fund remaining at the end of the year or “sweep” the remaining amount to general revenue of the county. For reference, see Sections 137.725 and 137.750.

The county commission has authority over the assessment fund to pay for expenditures related to assessment, including expenses set forth in Section 49.510 (which include office, supplies, furnishings, etc.) and other expenses not specifically set forth in the Assessment Maintenance Plan or listed in Section 137.750. This principle comes from the court’s decision in *Cole County v. Estes*, 437 S.W.3d 307 (Mo. App. W.D. 2014).

In the *Estes* decision, the Cole County Commission sought reimbursement from the Assessor for a portion of the technology costs – server, IT Department, staffing, etc. The County had a study performed by an outside agency to determine each county department’s share of the expenses. The Assessor refused to approve the expenses allocated to his office claiming that the expense was not part of the plan nor authorized under Section 137.750. The County transferred the funds from the assessment fund to general revenue.

The Court of Appeals concluded that the County Commission had the statutory authority to pay for technology expenses incurred by the Assessor’s Office, even though the technology expenses were not included in the Assessment Maintenance Plan, because Section 137.725 authorizes a county to pay *all* cost and expenses of an assessor’s office from the Assessment Fund, which would include technology expenses allocated to the assessor. While Section 137.750 identifies the sources of funds deposited into the Assessment Fund, the statute is silent and does not limit the expenses to be paid from the fund to only include expenses allowed to be reimbursed through State reimbursement funds or expenses set forth in the Assessment Maintenance Plan.

The Court also reasoned that Section 137.725 bestows the authority to make expenditures from the assessment fund on the “county,” which acts through the County Commission. The County Commission therefore is authorized to pay expenses related to assessment purposes, including expenses under Section 49.510.

6) Discuss Sales Ratio's (JS)

1. When are they expected to be turned in? (JS)

The Residential Sales Studies conducted by the STC will begin in April, 2022 for the 21 cycle. Counties will submit sales databases with the 2020/2021 sales by April 15, 2022. Quarterly Sales Ratios from the counties are expected to be submitted to the Local Assistance Section each quarter.

2. Is there a certain number needed to make a study? (JS)

Residential Sales Studies conducted by the STC require a minimum of 50 sales or 1% of the population. All sales should be submitted, but only pure residential sales will be used in the sales study. Vacant residential sales should be submitted as well.

7) Explain how the Commercial Ratio is done with the 30 parcels (JS)

All of this information can be found in Chapter 4 of the Assessor's Manual. The commercial studies are on a 6-year rotation. Once the Assessment Roll is submitted, the STC Statistician, utilizing a statistical sampling program, randomly selects 30 properties to be included in the study. Once the samples are randomly selected the STC Appraiser inspects the properties (measures and takes photos.) The properties are then sketched and valued utilizing the cost approach, sales comparison, and income approach as applicable. A ratio is then generated comparing the STC Appraiser's Value to the Assessor's value. If the median ratio is between 90% - 110% it falls within the acceptable parameters. If the ratio is outside of the 90% - 110% range the county is not in compliance for the commercial ratio. Assessors are encourage to meet with the STC Appraiser/Supervisor to discuss the results. If additional information is supplied at the meeting that would warrant some adjustments, those changes will be made and a final ratio will be sent out with the revised results.

8) Explain what the LA is doing with the 30 residential parcels they pull periodically (JS)

Since we no longer conduct residential appraisals and rely on residential sales studies we needed a way to check the accuracy of data collection in the field. The Local Assistance Representative will request 30 residential PRC's each cycle and will drive by each of the properties to compare what they view to what is on the county PRC. If there are discrepancies, the LA Rep will discuss with the Assessor and make them aware of items that need to be addressed.

9) Explain what the LA does with the residence of the Assessor (JS)

Local Assistance reviews the Assessor's Residence in the odd-numbered year. The property is not being appraised. The purpose of the review is to make sure the Assessor's residence is being treated like similar type properties in the county. The residence is measured and photographed. The STC is checking for accuracy of data characteristics on the PRC. For example, if the home site is 3 acres, the LA Rep would request similar properties on small acreage to make sure the land value is being applied properly to the Assessor's home. The Assessor can request a copy of the Assessor Residence Report after it has been reviewed and approved.

- 10) Let the counties know the property pecking order at the State Tax Commission (GR)
- a. Like who to reach out to on certain issues. Also make a point to update that annually
Start with our Assessment Representative, next you can contact Jeff Schmidt or Larry Hixson and they will field the inquiry at that point or direct to the proper section manager.

11) Address what makes a parcel Tax Exempt (ASW)

Generally speaking, to be considered exempt from taxation, the property must fall within the categories stated in the Missouri Constitution, Art. X, Section 6, and Section 137.100 of the Revised Missouri Statutes. The Missouri courts also have established the Franciscan test to determine whether property is exempt from taxation where it is owned and used on a not-for-profit basis for religious, educational, or charitable purposes. It is within the assessor's discretion to determine whether the facts and circumstances related to a particular property cause the property to be qualified as exempt. However, one should remember that taxation is the rule and exemption is the exception, so the assessor should base his or her determination on the specific information provided by the taxpayer as well as information gathered as part of an independent review of the property. The tests for the exemptions stated under the Franciscan test are stated in the Assessors' Manual on the STC website. Keep in mind that the Franciscan Test instructs us that an exemption is to be determined on a case by case basis. Some counties have developed their own exemption application to assist them in determining if a property meets the requirements of the Franciscan test for either religious, educational, or charitable exemption.

a. What constitutes a tax exemption on church properties? (ASW)

All property, real and personal, actually and regularly used exclusively for religious worship, . . . [but] does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;

and

Motor vehicles leased for a period of at least one year 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[.]

The legal test that comes from Missouri case law for a religious exemption is whether:

(1) the primary and inherent use of the property is for "religious worship" ("Religious worship" embodies as a minimum requirement a belief in a Supreme Being and references the rituals, customs, and practices required or believed necessary to carry out the faith's belief in its Supreme Being); and

(2) the property is owned and operated on a not-for-profit basis.

Examples:

Land held for construction of a future church probably won't qualify for exemption. Leased motor vehicles transporting parishioners to church for religious worship that meet the requirements of Section 137.100(7) qualify for exemption. Motor vehicles owned by the church and other personal property owned by the church that meet the requirements of Section 137.100(5) would qualify for exemption.

b. How does a State Tax Commission hearing work for tax exemption? (ASW)

A STC hearing on the issue of tax exemption is the same as a hearing on other issues in that the entity seeking the exemption would be required to present substantial and persuasive evidence to establish the property should be exempted.

12) Discuss the recourses we have for obtaining information (VC with assistance from JS and ASW)

As a preface to the answers to the following specific questions, we suggest that you, as the assessor, can utilize numerous independent sources of information to assist you in making a decision when a taxpayer seeks an adjustment of their assessment but is then unwilling to share information to help you in reviewing the accuracy of the assessment or making the requested adjustment.

a. Corp of Engineers on dock data (VC)

Reach out to Corp or Ameren depending on the location of the dock. In most instances, a dock permit is required and should provide the information needed to assess the dock.

b. Air B & B (VC)

Search the Airbnb site to check for offered properties and it may provide the information you need to verify the number of nights a property has been offered for nightly rental. Another option would be to contact DOR to see if they have a list of properties that are affiliated with Airbnb. In 2018, Airbnb and DOR reached an agreement by which Airbnb would collect sales tax on the rentals of properties rented through their website and remit the collections to DOR. Additionally, some counties and cities are collecting sales taxes on nightly rentals and could be a source of information. However, please be aware that DOR and local governments might not have information regarding the details about the property, such as the specific number of nights rented, which could impact the decision to assess the property at a particular percentage of the year as residential property and a particular percentage of the year as commercial property. Section 137.016(4) instructs the assessor to assess property "used or held for use for more than one purpose and such uses result in different classifications [to] allocate to each classification the percentage of the true value in money of the property devoted to each use"

c. Electrical companies on new turn ons (VC)

Reach out to the local utility companies and request that they provide the assessor with a list of new utility hookups. Section 137.082 (3) No utility company shall refuse to provide verification monthly to the assessor of a utility connection to a newly occupied single family building or structure.

d. Income information on cell towers, billboards, etc. (VC)

If the assessor determines that the Income Approach is applicable the assessor would need to contact the owner of these types of property to request the income information. Cell towers have been assessed as business personal property subject to depreciation according to MACRs, and this method requires original cost information rather than income information.

e. Mobile home park owners, provide date on who owns the mobile homes (VC)

Section 137.092 requires the owner of a mobile home park to provide the county assessor with a list of the lessees of the lots in the mobile home park no later than January 30 of each year. A reading of the plain language of the statute implies that the owner of a mobile home park should provide a list of the lessees of both the lots being leased by the park as well as any mobile homes being leased by the park. Section 137.092 does not authorize the county assessor to place a lien on the land in the event that the owner of the mobile home park does not provide the list of lessees. Unless the owner of the home and the park are one and the same, the taxes for the mobile home would not be assessed to the owner of the mobile home park but to the owner of the mobile home. According to Section 137.115.6:

". . . 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. For purposes of this section, a manufactured home located on real estate owned by the manufactured home owner may be considered real property."

A mobile home is considered to be "real estate" only when several statutory conditions have been met under Section 442.015, including, but not limited to, the ownership of the land and the mobile home are identical.

13) Discuss the power of BOE Judges on the county level (ASW)

a. Can they require an assessor to roll all of their values back to previous years value?

The BOE has the duty under the statutes to equalize valuation and assessments on real and tangible personal property taxable by the county so that the property shall be entered on the tax book at its true value in money or fair market value. See Section 138.030.2. If the BOE finds that the value placed on property by the assessor exceeds the property's true value in money or fair market value, the BOE has the authority to reduce the value to what the BOE believes is the property's true value or market value.

- b. Does the assessor have any appeal rights if they lose a hearing? (ASW)
In the context of a BOE hearing, the answer is no; the taxpayer can appeal the assessor's value to the BOE and appeal the BOE's value to the STC. If the appeal is decided by a hearing officer of the STC, either the taxpayer or the assessor can appeal the decision of the hearing officer to the full three member Commission. After the appeal is decided by the Commission, either the taxpayer or the assessor can appeal the decision of the Commission to the circuit court of the assessor's county.
- c. Does the local BOE have to take any oaths or have any penalties for lowering value, simply because they just do not want higher taxes (ASW)
Under the plain language of Section 138.030.1, the members of the county board of equalization shall each take an oath, to be administered by the clerk, to fairly and impartially equalize the valuation of all real estate and tangible personal property taxable by the county.
- d. Can the local BOE be sued by local taxing entities for artificially lowering values (ASW)
A summary answer to this question is essentially that anyone can file a lawsuit against another for any reason at any time. However, the more relevant question is whether the lawsuit is considered valid or void by the courts. One consideration a court must undertake to determine whether a lawsuit can proceed is whether the plaintiff, the party suing the defendant, has "standing" to bring the lawsuit. This generally means that the plaintiff was harmed by the defendant. In the context of assessment of property, a local taxing entity probably would not have standing to sue the BOE for lowering values on property because the BOE has the statutory duty to equalize and value property at its market value, which includes the authority to lower values if necessary to get the assessments to market level. This question refers to "artificially lower values," which implies that the BOE has engaged in some type of wrongdoing. That is a different scenario, which would require legal analysis of specific facts that are alleged to have culminated in the alleged wrongdoing. Consequently, the taxing entity would need to consult with its attorney to determine whether such a lawsuit could or should be filed.

14) Discuss the 32-hour training requirements (SJ)

Assessors must take 32-hours of education concerning the assessment of ad valorem property taxes every two years to remain compliant. There is no requirement to pass a written or oral exam to remain compliant.

- a. The sign in policy (SJ)
Assessors must sign the AM and PM sessions for all sessions of the State Tax Commission (STC) sign-in sheets to receive credit for 32-hours of education. Additionally, the instructor will be required to sign a certification statement attesting that everyone that signed the sign-in sheets did attend the full course.

Assessors may receive partial credit for completed courses. (Example: MSAA has two 2-day workshops totaling 32 hours. An assessor completes the first 2-day workshop, but unexpectedly must leave the school and does not complete the second 2-day workshop. Since the assessor completed the first workshop, the assessor may receive 16 hours of credit. They would have to make up the remaining 16 hours before the end of their certification period.

b. Repeating classes, etc. (SJ)

Assessors are allowed to repeat courses, but shall not do so back to back or continuously repeat the exact same course.

c. When can one take the class during a two-year period? (SJ)

Assessors can take as many courses as they would like during the two-year certification period. Once a single 32-hour course is taken during the certification period, it extends to their next certification period. Any other courses attended once their certification period has been extended, will not extend them again. They will need to take 32 hours during the next certification period to extend again.

15) What constitutes a physical inspection in regards to a 15% increase? (ASW)

This requirement applies to residential real property.

This requirement does not apply when the increase is due to new construction or improvements.

The plain language of Sections 137.115(10) and 137.115(12) require an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access. No drive-by inspections “or the like” are sufficient to be considered a physical inspection as required by the statute.

If the assessor decides to increase the value by more than 15%, the assessor must notify the taxpayer of his/her rights relating to the physical inspection, including that the taxpayer may request an interior inspection be performed during the physical inspection. The taxpayer has not less than 30 days to notify the assessor of a request for an interior inspection. Practically speaking, the timeline would look something like this:

(1) Increase more than 15%

(2) Written notice sent to taxpayer stating physical inspection will take place and taxpayer has at least 30 days from date of notice to request interior physical inspection.

(3) Inspection = on-site personal observation and review of all exterior portions of land and buildings/improvements + interior of home/improvements if requested by taxpayer.