

State Tax Commission Annual Report - 2011

CHAPTER VIII

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Title 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 1—General Organization

12 CSR 30-1.010 General Organization

PURPOSE: This rule is to comply with the requirements of section 536.023(3), RSMo which requires each state agency to adopt as a rule a description of its organization and general courses and methods of its operation and the methods and procedures where the public may obtain information or make submissions or requests.

(1) The State Tax Commission supervises and directs assessment and taxation laws.

(A) The commission has the duty to exercise general supervision over all assessing officers of the state and over county boards of equalization. In the execution of its duties and powers, the commission shall call upon the attorney general or any prosecuting or circuit attorney in the state for assistance in the enforcement of all laws relating to the general property tax.

(B) The commission has the power to call an annual meeting of assessors. The commission has the duty each year to have one (1) member or a duly authorized representative visit officially the several counties of the state to inquire into the methods of assessment and taxation to ascertain whether assessment and revenue officers are faithfully discharging their duties as required by law.

(C) The commission has the duty to prescribe the form of all blanks and books that are used in the assessment and collection of the general property tax, except as otherwise provided by law.

(D) The commission has the duty to require from any officer in the state, on forms prescribed by the commission, (see 12 CSR 30-1.030) reports as shall enable the commission to ascertain the assessed and equalized value of all real and tangible personal property.

(E) The commission has the duty to raise or lower the assessed valuation of any real or tangible personal property of any individual, partnership, company or corporation in compliance with the laws of this state.

(F) The commission has the power to cause to be placed upon the assessment rolls, at any time during the year, property omitted from the tax rolls for any reason, and to correct errors on the assessment rolls.

(G) The commission has the duty to equalize the valuation of real and tangible personal property among the several counties of the state.

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- (2) The commission has the exclusive power of original assessment of railroads, bridges, telegraph, telephone, express companies and other similar public utility companies and firms.
- (3) The commission has the duty to investigate and hear taxpayer appeals from the local boards of equalization and to correct any assessment which is shown to be unlawful, unfair, improper, arbitrary or capricious.
- (4) The commission has the duty to publish and distribute an annual report of the proceedings and decisions of the commission.
- (5) The commission has the duty to certify the ratio of assessment to value in each county each year to the State Board of Education for utilization in the school aid formula.
- (6) The commission has the power to appoint, by an order, agents and hearing officers whose duties shall be prescribed in the order, for the purpose of making any investigations, or the performance of other duties regarding any matters relating to taxation.
- (7) The commission has the duty to investigate companies which have tangible personal property for lease, to cause the property to be properly taxed.
- (8) The State Tax Commission is located in the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. The mailing address for the State Tax Commission is PO Box 146, Jefferson City, MO 65102-0146. The phone number is (573) 751-2414.

AUTHORITY: sections 138.290, 138.380, 138.390, 138.395, 138.410, 138.415, 138.420, 138.430, 138.440 and 138.450, RSMo 2000. Original rule filed Sept. 15, 1976, effective Jan. 13, 1977. Amended: Filed April 17, 1979, effective July 16, 1979. Rescinded and readopted: Filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 13, 2006, effective Oct. 30, 2006. Amended: Filed Dec. 21, 2007, effective June 30, 2008.

12 CSR 30-1.020 Meetings and Hearings

PURPOSE: The purpose of this rule is to announce the time and place of meetings and hearings of the State Tax Commission.

- (1) The principal office of the State Tax Commission is located in the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. The mailing address for the State Tax Commission is PO Box 146, Jefferson City, MO 65102-0146. The phone number is (573) 751-2414. All general inquiries to the commission, cover letters, motions and other pleadings should be addressed to the Administrative Secretary, State Tax Commission of Missouri, PO Box 146, Jefferson City, MO 65102-0146. All documents filed with the commission must be on eight and one-half by eleven inch (8 1/2" x 11") (letter size) paper.
- (2) Regular meetings of the commission will generally be held in the hearing room of the commission during regular business hours, Monday through Friday, except legal holidays, for the purpose of conducting public business before the commission, and for the purpose of adopting or rejecting, by public vote, proposed decisions and orders in appeals taken under section 138.430, RSMo.

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(3) Formal hearings before the commission will generally be held between 9:00 a.m. and 4:30 p.m., Monday through Friday, except legal holidays, in the county of which venue is located for the purpose of appellate review.

(4) Two (2) commissioners constitute a quorum for the transaction of business, the performance of any duty or the exercise of any power of the commission.

AUTHORITY: section 138.430, RSMo 2000. Original rule filed Dec. 13, 1976, effective June 11, 1977. Amended: Filed Jan. 30, 1978, effective May 11, 1978. Amended: Filed April 12, 1979, effective July 16, 1979. Amended: Filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 23, 1984, effective Sept. 14, 1984. Amended: Filed April 13, 2006, effective Oct. 30, 2006. Amended: Filed Dec. 21, 2007, effective June 30, 2008.

12 CSR 30-1.030 Forms

PURPOSE: This rule sets forth the forms utilized by the State Tax Commission in the assessment and collection of the general property tax.

(1) The forms prescribed by the commission to be used in an appeal to the State Tax Commission from the local board of equalization (12 CSR 30-3.010) are: STC Form 103 (5-86) (Complaint for Review of Assessment--Real Property); STC Form 104 (5-86) (Complaint for Review of Assessment--Personal Property); and STC Form 106 (6-86) (Complaint for Review of Assessment--Manufacturers).

(2) The forms to be used in the reporting and collection of taxes on railroads and street railroads pursuant to Chapter 151, RSMo, include the following: Form 20A (10-89) (Railroad Aggregate Statement of Taxable Property); Form 20 (9-87) (Railroad Aggregate Statement of Taxable Property); Form 20, Schedule 1 (10-87) (Company Organization--General Information); Form 30, Schedule 2 (10-89) (Taxation by States); Form 20, Schedule 3 (10-89) (Mileage of Road and Railway Statistics); Form 20, Schedule 3T (10-87) (Mileage of Road and Railway Statistics--Terminals); Form 20, Schedule 4 (10-88) (Main Track Mileage); Form 20, Schedule 5 (10-85) (Leased Equipment); Form 20, Schedule 6 (10-85) (Real/Personal Allocation); Form 20, Schedule 7 (10-85) (Comparative Balance Sheet); Form 20, Schedule 8 (10-85) (Comparative Income Statement); Form 30, Schedule 9 (10-85) (Capital Stock); Form 30, Schedule 10 (10-88) (Long Term Debt); Form 30, Schedule 11 (10-85) (Non-Operating Property in Missouri); Form 30, Schedule 12 (10-87) (Total of County's Locally Assessed Property); Form 30, Schedule 13 (11-86) (County Apportionment); Form 30, Schedule 14 (11-86) (Local Assessments); Form 30, Schedule 15 (9-87) (Real Estate Information); Form 30, Schedule 16 (11-85) (Motor Vehicle Information); Form 20, Schedule 17 (10-89) (Freight Line Company Mileage); Form 20, Schedule 18 (10-89) (Freight Line Company Credits); Form 20, Schedule 19 (9-99) (Previous Year's Assessment and Taxes); Form 50 (10-89) (Freight Line Company Aggregate Statement of Taxable Property); Form 50, Schedule 1 (10-89) (Company Organization--General Information); Form 50, Schedule 2 (9-97) (Freight Line Company Inventory of Rail Cars); and Form 50, Schedule 4 (9-97) (Freight Line Company Allocation).

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(3) The forms to be used for the reporting and collection of the private car tax pursuant to Chapter 152, RSMo, include the following: Form 10 (10-87) (Freight Line Company Report of Car Rental); Form 20, Schedule 4 (10-88) (Main Track Mileage); and Form 15 (10-87) (Railroad Company Report of Car Rentals).

(4) The forms to be used for the reporting and collection of taxes on bridge, express and public utility companies pursuant to Chapter 153, RSMo, include the following:

(A) Bridge Companies. Form 13 (10-85) (Bridge Company Aggregate Statement of Taxable Property); and Form 13, Schedule 1 (10-85) (Company Organization--General Information);

(B) Telephone, Telecommunication and Telegraph Companies. Form 30 (11-86) (Aggregate Statement of Taxable Property); Form 30, Schedule 1 (9-87) (Company Organization--General Information); Form 30, Schedule 2 (10-89) (Taxation by States); Form 30, Schedule 3 (9-87) (Allocation Factors); Form 30, Schedule 3T (10-89) (Supplemental Information); Form 30, Schedule 4 (10-85) (Mileage by Line); Form 30, Schedule 5 (10-85) (Leased Equipment); Form 30, Schedule 6T (10-89) (Real/Personal Allocation); Form 30, Schedule 7 (10-85) (Comparative Balance Sheet); Form 30, Schedule 8 (10-85) (Comparative Income Statement); Form 30, Schedule 9 (10-85) (Capital Stock); Form 30, Schedule 10 (10-88) (Long Term Debt); Form 30, Schedule 11 (10-85) (Non-Operating Property in Missouri); Form 30, Schedule 12 (10-87) (Total of County's Locally Assessed Property); Form 30, Schedule 13 (11-86) (County Apportionment); Form 30, Schedule 14 (11-86) (Local Assessments); Form 30, Schedule 15 (9-87) (Real Estate Information); Form 30, Schedule 16 (11-85) (Motor Vehicle Information); and Form 30, Schedule 17 (10-85) (Distributable Real Property Owned in Fee);

(C) Electric Companies. Form 30 (11-86) (Aggregate Statement of Taxable Property); Form 30, Schedule 1 (9-87) (Company Organization--General Information); Form 30, Schedule 2 (10-89) (Taxation by States); Form 30, Schedule 3 (9-87) (Allocation Factors); Form 30, Schedule 3E (10-88) (Supplemental Information); Form 30, Schedule 4 (10-85) (Mileage by Line); Form 30, Schedule 5 (10-85) (Leased Equipment); Form 30, Schedule 6E (10-89) (Real/Personal Allocation--Page 1 of 2); Form 30, Schedule 6E (10-89) (Real/Personal Allocation--Page 2 of 2); Form 30, Schedule 7 (10-85) (Comparative Balance Sheet); Form 30, Schedule 8 (10-85) (Comparative Income Statement); Form 30, Schedule 9 (10-85) (Capital Stock); Form 30, Schedule 10 (10-88) (Long Term Debt); Form 30, Schedule 11 (10-85) (Non-Operating Property in Missouri); Form 30, Schedule 12 (10-87) (Total of County's Locally Assessed Property); Form 30, Schedule 13 (11-86) (County Apportionment); Form 30, Schedule 14 (11-86) (Local Assessments); Form 30, Schedule 15 (9-87) (Real Estate Information); Form 30, Schedule 16 (11-85) (Motor Vehicle Information); and Form 30, Schedule 17 (10-85) (Distributable Real Property Owned in Fee);

(D) Natural Gas Pipeline Companies. Form 30, (11-86) (Aggregate Statement of Taxable Property); Form 30, Schedule 1 (9-87) (Company Organization--General Information); Form 30, Schedule 2 (10-89) (Taxation by States); Form 30, Schedule 3 (9-87) (Allocation Factors); Form 30, Schedule 3NG (9-87) (Supplemental Information); Form 30, Schedule 4 (10-85) (Mileage by Line); Form 30, Schedule 5 (10-85) (Leased Equipment); Form 30, Schedule 6NG (10-89) (Real/Personal Allocation--Page 1 of 3); Form 30, Schedule 6NG (10-89) (Real/Personal Allocation--Page 2 of 3); Form 30, Schedule 6NG (10-89) (Real/Personal Allocation--Page 3 of 3);

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3); Form 30, Schedule 7 (10-85) (Comparative Balance Sheet); Form 30, Schedule 8 (10-85) (Comparative Income Statement); Form 30, Schedule 9 (10-85) (Capital Stock); Form 30, Schedule 10 (10-88) (Long Term Debt); Form 30, Schedule 11 (10-85) (Non-Operating Property in Missouri); Form 30, Schedule 12 (10-87) (Total of County's Locally Assessed Property); Form 30, Schedule 13 (11-86) (County Apportionment); Form 30, Schedule 14 (11-86) (Local Assessments); Form 30, Schedule 15 (9-87) (Real Estate Information); Form 30, Schedule 16 (11-85) (Motor Vehicle Information); and Form 30, Schedule 18 (10-85) (Pipe Statistics); and

(E) Fluid Pipeline Companies. Form 30 (11-86) (Aggregate Statement of Taxable Property); Form 30, Schedule 1 (9-87) (Company Organization--General Information); Form 30, Schedule 2 (10-89) (Taxation by States); Form 30, Schedule 3 (9-87) (Allocation Factors); Form 30, Schedule 3FP (9-87) (Supplemental Information); Form 30, Schedule 4 (10-85) (Mileage by Line); Form 30, Schedule 5 (10-85) (Leased Equipment); Form 30, Schedule 6FP (10-89) (Real/Personal Allocation); Form 30, Schedule 7 (10-85) (Comparative Balance Sheet); Form 30, Schedule 8 (10-85) (Comparative Income Statement); Form 30, Schedule 9 (10-85) (Capital Stock); Form 30, Schedule 10 (10-88) (Long Term Debt); Form 30, Schedule 11 (10-85) (Non-Operating Property in Missouri); Form 30, Schedule 12 (10-87) (Total of County's Locally Assessed Property); Form 30, Schedule 13 (11-86) (County Apportionment); Form 30, Schedule 14 (11-86) (Local Assessments); Form 30, Schedule 15 (9-87) (Real Estate Information); Form 30, Schedule 16 (11-85) (Motor Vehicle Information); and Form 30, Schedule 18 (10-85) (Pipe Statistics).

(5) The forms to be used for the reporting and collection of taxes on aircraft pursuant to Chapter 155, RSMo, include the following: Form 12 (10-85) (Aggregate Statement of Taxable Property); Form 12, Schedule 1 (10-85) (Aircraft Inventory Information); and Form 12, Schedule 2 (10-85) (Aircraft Allocation).

AUTHORITY: sections 137.930, 138.430, 151.020, 153.030 and 155.020, RSMo 1994. Original rule filed Feb. 8, 1983, effective May 12, 1983. Emergency amendment filed Dec. 13, 1983, effective Dec. 24, 1983, expired March 15, 1984. Amended: Filed Dec. 13, 1983, effective March 12, 1984. Emergency rule and rescission filed Nov. 15, 1989, effective Dec. 31, 1989, expired Feb. 2, 1990. Rescinded and readopted: Filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Nov. 3, 1999, effective May 30, 2000.*

Title 12--DEPARTMENT OF REVENUE Division 30--State Tax Commission Chapter 2--Original Assessment

12 CSR 30-2.011 Completion of Forms by Assessors to be Used in Original Assessment by the State Tax Commission

PURPOSE: This rule sets forth procedures to be used by assessors in the completion of forms for original assessment by the commission.

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- (1) Unless otherwise provided, each assessor in the state shall estimate on Form 30, Schedule 14 the market value of property owned by each railroad, telegraph, telephone, express company and other similar public utility corporations, companies and firms (afterwards referred to as company) doing business within his/her jurisdiction.
- (2) Each assessor in the state shall provide a breakdown of the market value and assessment of real estate held by each company within his/her jurisdiction on Form 30, Schedule 15.
- (3) Each assessor in the state shall provide a breakdown of the market value and assessment of motor vehicles held by each company within his/her jurisdiction on Form 30, Schedule 16.
- (4) These forms shall be completed by each assessor per the attendant instructions and returned to the respective company, county clerk and state tax commission on, or before April 20 of each year.

AUTHORITY: sections 138.320, 138.420(1) and (2), RSMo (1994). Original rule filed Dec. 13, 1983, effective March 12, 1984. Emergency amendment filed Nov. 14, 1989, effective Dec. 31, 1989, expired Feb. 2, 1990. Amended: Filed Nov. 14, 1989, effective Feb. 25, 1990.*

12 CSR 30-2.015 Utility Property to be Assessed Locally and by the State Tax Commission

PURPOSE: This rule sets forth that railroad and utility property which is to be assessed by the local assessor and that property which is originally assessed by the state tax commission

- (1) The real and tangible personal property of water companies, gas distribution companies, cable television companies and rural electric cooperatives is to be assessed by the local assessor for ad valorem tax purposes.
- (2) The real and tangible personal property of railroad companies is to be assessed as follows for ad valorem tax purposes:

(A) The local assessor will assess—

1. Construction work in progress;
 2. Materials and supplies;
 3. Motor vehicles;
 4. Office furniture, office equipment, office fixtures;
 5. Office buildings, warehouses;
 6. Roundhouses, workshops;
 7. Land and buildings not assessed as distributable property; and
 8. Communication equipment not used in the movement of passengers and freight;
- and

(B) The state tax commission will originally assess--

1. Rail, ballast, ties, switches, switching equipment;
2. Roadbed, superstructure, bridges, trestles, culverts;
3. Railroad right-of-way, leased railroad lines, depots, water tanks and turntables;

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4. Rolling stock, engines, hand cars;
5. Communication equipment used in the movement of passengers and freight; and
6. Any other property used directly in the movement of passengers and freight.

(3) The real and tangible personal property of telephone and telegraph companies is to be assessed as follows for ad valorem tax purposes:

(A) The local assessor will assess--

1. Motor vehicles;
2. Construction work in progress;
3. Materials and supplies;
4. Office furniture, office equipment, office fixtures;
5. Office buildings and land;
6. Land held for future use;
7. Buildings used predominantly to house local property and land;
8. Workshops, warehouses and land; and
9. Work equipment and other general equipment; and

(B) The state tax commission will originally assess--

1. Central office equipment;
2. Station apparatus and station connections;
3. Large private branch exchanges;
4. Poles, lines, cable, wire, conduit, easements therefor and rights-of-way;
5. Microwave towers and sites;
6. All buildings used predominantly for housing distributable equipment and land associated with the buildings; and
7. Any other equipment directly used in the provision of telephone or telegraph service.

(4) The real and tangible personal property of pipeline companies is to be assessed as follows for ad valorem tax purposes:

(A) The local assessor will assess--

1. Motor vehicles;
2. Construction work in progress;
3. Materials and supplies;
4. Office furniture, office equipment, office fixtures;
5. Land held for future use;
6. Communication equipment not used for control of the movement of gaseous or liquid products;
7. Workshops, office buildings, warehouses, storage tanks, loading and unloading facilities; and
8. Land associated with other locally assessed property; and

(B) The state tax commission will originally assess--

1. Field lines, line pipe and fittings;

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2. Compressor station equipment and buildings;
3. Pumping equipment and buildings;
4. Measuring and regulating equipment and housing buildings;
5. Communication equipment used for control of transportation of gas or liquid products; and
6. Land and right-of-way associated with other distributable property.

(5) The real and tangible personal property of electric companies is to be assessed as follows for ad valorem tax purposes:

(A) The local assessor will assess--

1. Motor vehicles;
2. Construction work in progress;
3. Materials and supplies;
4. Office furniture, office equipment, office fixtures;
5. Coal piles, nuclear fuel;
6. Land held for future use;
7. Workshops, warehouses, office buildings and generating plant structures;
8. Communication equipment not used for control of generation and distribution of power;
9. Roads, railroads and bridges;
10. Reservoirs, dams and waterways; and
11. Land associated with other locally assessed property all generating plant land; and

(B) The state tax commission will originally assess--

1. Boiler plant equipment, turbogenerator units and generators;
2. Station equipment;
3. Towers, fixtures, poles, conductors, conduit transformers, services and meters;
4. Substation equipment, fences;
5. Right-of-way;
6. Reactor, reactor plant equipment, cooling towers;
7. Communication equipment used for control of generation and distribution of power; and
8. Land associated with distributable property.

AUTHORITY: sections 138.410, 138.420 and chapters 151 and 153, RSMo 1994. Original rule filed Dec. 16, 1985, effective May 11, 1986.

12 CSR 30-2.016 Allocation of Unit Value

PURPOSE: This rule sets forth a precise method for the allocation of the unit value of all originally assessable companies operating in Missouri.

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(1) The unit value of the following originally assessable companies operating in Missouri will be allocated to Missouri using the schedule of accounts as prescribed on the commissions' Aggregate Statement of Taxable Property in accordance with the factors set forth in this rule:

(A) Bridge Companies. The valuation allocated to Missouri should be based on the following factor:

1. The ratio of linear feet of the bridge and its approaches within the state to the entire length of the bridge and its approaches;

(B) Electric Companies. The valuation allocated to Missouri should be based on the following factors and percentage weights:

1. The ratios of total gross plant in service, total net plant in service, total operating revenues and net operating income within the state to the aggregate amounts of these factors of the electric company. These factors are assigned the following percentage weights:

<u>Factor</u>	<u>Weight</u>
A. Gross plant in service	30%;
B. Net plant in service	30%;
C. Total operating revenues and	20%;
D. Net operating income	20%;

(C) Natural Gas Pipeline Companies. The valuation allocated to Missouri should be based on the following factors and percentage weights:

1. The ratios of gross plant in service, net plant in service and miles of pipe (inch equivalent) within the state to the aggregate amount of these factors of the natural gas pipeline company. These factors are assigned the following percentage weights for the 1998 tax year:

<u>Factor</u>	<u>Weight</u>
A. Gross plant in service	43%;
B. Net plant in service and	43%;
C. Miles of pipe (inch equivalent)	14%.

Beginning in the 1999 tax year, the factors will be assigned the following percentage weights:

<u>Factor</u>	<u>Weight</u>
A. Gross plant in service	45%;
B. Net plant in service and	45%;
C. Miles of pipe (inch equivalent)	10%.

(D) Products and Liquid Pipeline Companies. The valuation allocated to Missouri should be based on the following factors and percentage weights:

1. Ratios of gross plant in service and miles of pipe (inch equivalent) and barrel miles within the state to the aggregate amount of these factors of the company. These factors are assigned the following percentage weights for the 1998 tax year:

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<u>Factor</u>	<u>Weight</u>
A. Gross plant in service	60%;
B. Miles of pipe (inch equivalent) and	15%;
C. Barrel Miles	25%.

Beginning in the 1999 tax year, the factors will be assigned the following percentage weights:

<u>Factor</u>	<u>Weight</u>
A. Gross plant in service	60%;
B. Miles of pipe (inch equivalent) and	10%;
C. Barrel Miles	30%.

(E) Railroad Companies. The valuation allocated to Missouri should be based on an arithmetic mean of the following ratios:

1. Ratio of operated mileage (excluding trackage rights) within the state to the total operated mileage of the railroad company;
2. Ratio of locomotive and car miles within the state to the total locomotive and car miles of the railroad company;
3. Ratio of railway operating revenue within the state to the total railway operating revenue of the railroad company;
4. Ratio of ton miles of revenue freight within the state to the total ton miles of revenue freight of the railroad company;
5. Ratio of revenue freight tons originating and terminating within the state to the total revenue freight tons originating and terminating of the railroad company; and
6. Ratio of undepreciated investment in road within the state to the total amount of undepreciated investment in road of the railroad company;

(F) Terminal Railroad Companies. The value allocated to Missouri should be based on an arithmetic mean of the following ratios:

1. Ratio of operated mileage (excluding trackage rights) within the state to the total operated mileage of the terminal railroad company; and
2. Ratio of undepreciated investment in road within the state to the total amount of undepreciated investment in road of the terminal railroad company;

(G) Telecommunications Companies. The valuation allocated to Missouri should be based on the following factors and percentage weights:

1. The ratios of gross plant in service, total operating revenues and net operating income within the state to the aggregate amounts of these factors for the telecommunications company. The factors are assigned the following percentage weights:

<u>Factor</u>	<u>Weight</u>
A. Gross plant in service	60%;
B. Total operating revenues and	20%;
C. Net operating income	20%.

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(H) Telephone Companies. The valuation allocated to Missouri should be based on the following factors and percentage weights:

1. The ratios of gross plant in service, total operating revenues and net operating income within the state to the aggregate amount of these factors for the telephone company. These factors are assigned the following percentage weights:

<u>Factor</u>	<u>Weight</u>
A. Gross plant in service	60%;
B. Total operating revenues	20%;
C. Net operating income	20%.

(I) Private Car Companies. The valuation allocated to Missouri should be based on the following ratios:

1. Ratio of total mileage within the state to the total mileage of the private car company;
2. Ratio of total loaded mileage within the state to the total loaded mileage of the private car company; and
3. Ratio of time spent within the state to the total annual time of the private car company.

AUTHORITY: sections 138.420, 151.030 and 151.060, RSMo 1994. This rule was previously filed as 12 CSR 30-1.016. Original rule filed Dec. 2, 1986, effective June 11, 1987. Amended: Filed Sept. 15, 1987, effective Dec. 31, 1987. Emergency amendment filed Nov. 14, 1989, effective Dec. 31, 1989, expired Feb. 2, 1990. Amended: Filed Nov. 14, 1989, effective Feb. 25, 1990. Amended: Filed May 14, 1993, effective Jan. 13, 1994. Amended: Filed May 13, 1997, effective Nov. 30, 1997.

12 CSR 30-2.018 Method of Administrrating the *Ad Valorem* Taxation of the Private Railcar Industry and Applying for the Freight Line Company Tax Credit

PURPOSE: This rule sets forth the precise method of administering the ad valorem tax for the private railcar industry and the procedure for applying for the tax credit for eligible expenses.

(1) The commission will determine the statewide average rate of property taxes levied for the preceding year from reports filed by the railroad and street railway companies operating within the state. This information will be filed with the Director of Revenue along with the current year's taxable distributable assessed valuation of each freight line company on or before the first of October. In addition, this report shall include the current total main line track mileage of the railroad and street railway companies within each county to the aggregate total of the state. This report will also include the following information:

- (A) Name and mailing address of each freight line company;
- (B) Assessed valuation of the distributable property for each freight line company;

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- (C) Statewide average rate of property taxes levied the preceding year; and
- (D) Amount of *ad valorem* tax due from each freight line company.

(2) Each freight line company applying for the tax credit authorized in subsection 137.1018.4, RSMo, shall submit a completed Form 50, Schedule 1, Schedule 3PC, and Schedule 20PC to the State Tax Commission on or before May 1 of the tax year for which the credit is sought, and no such credit shall be given to any company filing the form after that date. The method for determining whether the form is submitted within the time prescribed by this rule will be the same method used for determining the timeliness of complaints filed with the State Tax Commission as set out in 12 CSR 30-3.010(1)(C).

(3) In any year in which the general assembly appropriates insufficient funds to fully finance the tax credit authorized in subsection 137.1018.4, RSMo, the State Tax Commission, based upon the funds appropriated, shall allocate the credit proportionately among the freight lines timely requesting the tax credit for that year. The tax credit each individual freight line company will receive shall be calculated by multiplying the percentage that each company's claim (not to exceed their tax liability) represents of the total credit claims of all freight line companies (who timely submitted the required form and schedule for that tax year) multiplied by the amount of funds actually appropriated for that tax year.

AUTHORITY: section 137.1018, RSMo Supp. 2008 and section 137.1021, RSMo 2000. Original rule filed Sept. 20, 1999, effective May 30, 2000. Amended: Filed April 28, 2009, effective Nov. 30, 2009.

12 CSR 30-2.021 Original Assessment by State Tax Commission and Appeals

PURPOSE: This rule sets a precise method for appealing final decisions of the State Tax Commission as regards public utilities and those taxpayers coming under the original assessment of the commission.

(1) Every railroad, telegraph, telephone, express company and other and similar public utility corporations, companies and firms (afterwards referred to as company) doing business in Missouri, unless otherwise provided, shall proceed before the State Tax Commission as follows:

(A) Each company shall file its report with the State Tax Commission on or before April 1 of each year. Upon receipt of the report, the commission shall certify a tentative assessment to the company. The commission shall set a date upon which an informal hearing will be conducted for the company. At the hearing, the company shall be permitted to submit to the commission evidence and exhibits indicative of the value of the subject property;

(B) Subsequent to the proceedings set out in subsection (1)(A), the commission shall certify a final assessment to the company. The commission shall have the authority to amend a certified final assessment which it deems to be erroneous, or pursuant to section 155.040.3, RSMo, certify must be addressed through the appeal process. Upon receipt of the final assessment, the company, if dissatisfied, shall file a petition for a rehearing, which shall be decided as a contested case, after hearing on the record;

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(C) The petition shall be directed to the State Tax Commission. It shall state that the appeal is from the original assessment entered by the commission; the date of the assessment; the name of the taxpayer appealing; the business address of the taxpayer to which notice of hearing may be mailed; a brief statement of why the commission should change or modify the original assessment; and a brief statement of the relief to which complainant may feel entitled. The petition shall be sworn to by the complainant or his/her attorney;

(D) The petition for rehearing shall be filed not more than thirty (30) days after the company receives notice of the original assessment. The petition shall be served upon the commission by delivery, personally, to any commissioner or to the secretary of the commission or by registered mail, postage prepaid, addressed to the State Tax Commission at Jefferson City, Missouri. If personal service is made, it may be proven by the affidavit of any person competent to testify or by the official certificate of any officer authorized under the laws of Missouri to execute process. If the petition is served by mail, it shall be filed as of the date of its delivery by the postal authorities, to the office of the State Tax Commission in Jefferson City, Missouri;

(E) Discovery in appeals shall be as in other contested cases pursuant to 12 CSR 30-3.040;

(F) An assistant attorney general will assist the commission at the hearing and in preparing the decision. The commission's staff attorneys will assist commission staff in presentation of the case; and

(G) The State Tax Commission shall set the matter for hearing at the office of the State Tax Commission, Jefferson City, Missouri, within a reasonable time after that, and notify the complainant and the proper state officer of the date. The notice shall be given to the complainant by first-class mail, postage prepaid, addressed to the complainant's place of business as given the petition filed.

AUTHORITY: section 138.420, RSMo 2000. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Dec. 21, 2007, effective June 30, 2008.

Title 12--DEPARTMENT OF REVENUE

Division 30--State Tax Commission

Chapter 3--Local Assessment of Property and Appeals From Local Boards of Equalization

12 CSR 30-3.001 Two-Year Assessment Cycle

PURPOSE: This rule establishes the method assessors shall use to determine assessed value of real property under the two-year assessment cycle.

(1) The assessed value of real property shall be calculated by determining its true value in money on January 1 of each odd-numbered year. The value shall remain the same for the subsequent even-numbered year unless there has been new construction or property improvements between January 1 of the odd-numbered year and January 1 of the following even-numbered year.

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(2) In those instances in which new construction or property improvements have occurred between January 1 of an odd-numbered year and January 1 of an even-numbered year, the true value in money of the property as newly constructed or improved shall be determined as of January 1 of the odd-numbered year.

(A) The valuation of the property shall take into consideration the new construction or property improvements and shall assign to that new construction or property improvements the value which would have been attributed to new construction or improvements on January 1 of the odd-numbered year as though they had existed on that date.

(B) Examples.

1. On January 1, 1991, the subject property is a five (5)-acre vacant lot. On December 1, 1991, construction of a strip shopping center is completed. For the 1992 tax year, the assessed value is calculated by determining the true value in money of a shopping center of the same size, construction, location and use as the subject property as of January 1, 1991, and multiplying that amount by the appropriate statutory assessed value percentage.

2. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house with thirteen hundred (1300) square feet. On August 1, 1991, the addition of a second story and seven hundred (700) square feet is completed. For the 1992 tax year, the assessed value is calculated by determining the true value in money of a two (2)-story, two-thousand (2000) square foot residence of the same construction and location as the subject as of January 1, 1991, and multiplying that amount by the appropriate statutory assessed value percentage.

(3) A property improvement consists of any change to the physical characteristics of the property, whether that change is one that causes an increase or a reduction in value. Changes in zoning, neighborhood conditions or economic conditions which directly or indirectly affect the property will not warrant a change in the assessed value for the even-numbered year.

(A) Examples.

1. Assuming value is affected, a change in the assessed value for the 1992 tax year is warranted (see paragraph (2)(B)2.)

2. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house with thirteen hundred (1300) square feet. On December 1, 1991, the house burns to the ground. A change in the assessed value for the 1992 tax year is warranted.

3. On January 1, 1991, the subject property is a five (5)-acre vacant lot zoned agricultural. On December 1, 1991, the property is rezoned commercial. No new construction is added to the property. A change in the assessed value for the 1992 tax year is not warranted.

4. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house located on ten (10) acres of land in the rural area of the county. On December 1, 1991, the county began operation of a landfill on property adjacent to the subject property. The location and

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operation of the landfill negatively affect the value of the subject property. A change in the value for the 1992 tax year is not warranted.

5. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house with thirteen hundred (1300) square feet which is twenty (20) years old. On January 1, 1992, the subject property is twenty-one (21) years old. It is generally recognized in the appraisal of property that as property ages it physically deteriorates and it may be necessary to make a deduction for physical depreciation under the cost approach for value. A change in value for the 1992 tax year is not warranted.

(4) The examples used in this rule are by way of illustration only and not to be deemed to be the only instances to which this rule applies.

AUTHORITY: sections 137.115, RSMo Supp. 1992 and 138.320, RSMo 1986. Original rule filed May 14, 1991, effective Oct. 31, 1991.

12 CSR 30-3.005 Appeals of the Assessment of Real Property to the Local Board of Equalization Under the Two-Year Assessed Value Cycle

PURPOSE: This rule establishes how appeals of the assessment of real property to the local boards of equalization are to be accomplished under the two-year assessed value cycle and to ensure that the commission's authority to render decisions and orders in appeals from local boards of equalization is not compromised at the local level.

(1) Appeals to the Local Board of Equalization in Odd-Numbered Years. Appeals to the local board of equalization in odd-numbered years from assessment placed on real property by the county assessor shall be made by the aggrieved taxpayer in the manner required by law.

(2) Appeals to the Local Board of Equalization in Even-Numbered Years.

(A) If a taxpayer did not file an appeal of an assessment of real property from the local board of equalization to the State Tax Commission in the odd-numbered year, the appeal to the local board of equalization in the even-numbered year shall be made by the aggrieved taxpayer in the manner required by law.

(B) If a taxpayer did file an appeal of an assessment of real property from the local board of equalization to the State Tax Commission in the odd-numbered year, the local board of equalization shall accept as duly filed appeal of the assessment in the even-numbered year, a notice from the State Tax Commission to the county clerk that an appeal of the odd-numbered year's assessment is presently pending before the State Tax Commission. This notice shall constitute the filing of an appeal in writing to the local board of equalization on behalf of the taxpayer. The local board of equalization shall hear and decide an appeal in the same manner it would hear and decide other appeals to it. The notice filed by the State Tax Commission on behalf of the taxpayer shall be filed before April 1 of the even-numbered year.

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(3) Nothing in this rule shall prevent a taxpayer from filing an appeal of the assessment of real property on his/her own behalf in the even-numbered year from dismissing an appeal before the local board of equalization filed on his/her behalf by the State Tax Commission, or from appearing and presenting evidence at a hearing on his/her appeal at the local board of equalization.

AUTHORITY: section 137.115.1., 138.060.1., 138.431.3. RSMo Supp. 1992 and 137.275 and 137.385, RSMo 1986. Original rule filed May 14, 1991, effective Oct. 31, 1991.*

12 CSR 30-3.010 Appeals From the Local Board of Equalization

PURPOSE: This rule informs the local taxpayer of his/her right to protest by complaint or appeal an assessed value which s/he feels is unlawful, unfair, improper, arbitrary or capricious and the procedure for filing these complaints or appeals.

(1) Every owner of real property or tangible personal property shall have the right to appeal from the decision of the local board of equalization, upon compliance with the following rules:

(A) This appeal shall be initiated by filing a complaint on forms prescribed by this commission and directed to the State Tax Commission. No complaint will be accepted unless on forms prescribed by this commission; provided, that any complainant may attach to commission forms any additional written pleading deemed appropriate by complainant. The complaint shall specify the name of the complainant; the business address of the complainant or an attorney to whom notice of hearing may be mailed; the legal description of the real property or the complete description of the tangible personal property at issue; a brief statement of the grounds upon which the assessment of the property is claimed to be unlawful, unfair, improper, arbitrary or capricious; a statement that the complainant had appealed to the proper local board of equalization; a statement of the relief to which complainant may feel entitled; if required under 12 CSR 30-3.025(3), a verified statement which states facts tending to demonstrate that the commission should reconsider the appropriateness of the value in the even-numbered year; and other information as shall be requested upon the commission forms;

(B) A complaint appealing a property assessment shall be filed not later than September 30 or within thirty (30) days of the decision of the board of equalization, whichever is later.

1. In any county or the City of St. Louis, the owner may appeal directly to the State Tax Commission (a) where the assessor fails to notify the current owner of the property of an initial assessment or an increase in assessment from the previous year, prior to thirty (30) days before the deadline for filing an appeal to the board of equalization, including instances in which real property was transferred and the prior owner was notified, or (b) where a new owner purchased real property less than thirty (30) days before the deadline for filing an appeal to the board of equalization or later in the tax year, regardless if the assessment is an initial assessment, an increase or decrease in assessment, or an assessment established in the prior year. Appeals under this paragraph shall be filed within thirty (30) days after a county official mailed a tax statement or otherwise first communicated the assessment or the amount of taxes to the owner or on or before December 31 of the tax year in question, whichever is later. Proof of late notice, the date of purchase, and/or notice sent to the prior owner shall be attached to, or set forth in, the complaint.

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2. A property owner who, due to lack of notice, files an appeal directly with the State Tax Commission after tax statements are mailed should pay his or her taxes under protest pursuant to the requirements of section 139.031, RSMo, and the county collector shall upon receiving either the payment under protest or the notice specified in section 138.430, RSMo, impound all portions of taxes which are in dispute;

(C) Any complaint shall be served upon the State Tax Commission personally to any commissioner or to the administrative secretary of the commission, by certified, registered, regular, private carrier service mail or electronic transmission addressed to the State Tax Commission in Jefferson City. For purposes of this rule, electronic transmission shall mean facsimile transmission or e-mail.

1. If personal service is made, it may be proven by the affidavit of any person competent to testify, or by the official certificate of any officer authorized under the laws of Missouri to execute process. In determining whether complaints personally served are filed within the time prescribed by law, the date on which personal service is obtained shall be deemed to be the date the complaint is filed with the commission.

2. In determining whether complaints are filed within the time prescribed by law, the complaints may be transmitted to the commission by registered, certified, or regular mail or by private carrier service. Complaints filed by registered or certified mail shall be deemed filed with the commission as of the date deposited with the United States Postal Service. Complaints filed by private carrier service shall be deemed filed as of the date shown by the record of the mailing. Complaints filed by regular or metered mail shall be deemed filed on the date of post office cancellation; or three (3) days before the date the commission receives the complaints if there is no dated post office cancellation.

3. In determining whether complaints filed by electronic transmission are filed within the time prescribed by law, complaints so filed shall be deemed filed with the commission as of the date the electronic transmission is received by the commission. A complaint filed by electronic transmission shall have the same effect as the filing of an original document and an electronic signature shall have the same effect as an original signature;

(D) Two (2) copies of the complaint shall be filed with the commission, one (1) copy of which will be forwarded to the assessor with notice of institution of the proceedings to review assessment; and

(E) The State Tax Commission, upon the filing of the complaint, shall set the matter for hearing at the office of the county court at the county seat, or at another place in the county of assessment, as the commission considers convenient, and notice of the hearing shall be given in the manner provided by law.

(2) On any appeal taken to the commission from the local board of equalization, a natural person may represent him/herself in the proceedings before the commission. The county assessor, but not a deputy, may represent his/her office in such proceedings. All others must appear through an attorney licensed to practice law in Missouri or in another jurisdiction.

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(A) Any person who signs a pleading or brief, or who enters an appearance at a hearing for an entity or another person, by an act expressly represents that s/he is authorized to so act and that s/he is a licensed attorney-at-law in this state or his/her state of residence.

(B) Any attorney, not licensed in this state but who is a member in good standing of the bar of any court of record, may be permitted to appear and participate in a particular appeal or appeals before the commission under the following conditions: The visiting attorney shall file with his/her initial pleading a receipt for his/her *pro hac vice* authorization from the Clerk of the Missouri Supreme Court to appear before the commission on the designated appeal or appeals along with a statement identifying each court of which s/he is a member of the bar and certifying that neither s/he nor any member of his/her firm is disqualified from appearing in any such court. Also, the statement shall designate some member of the Missouri Bar having an office in Missouri as associate counsel. This designated attorney shall enter his/her appearance as an attorney of record.

(3) When a lawyer is a witness for his/her client, except as to merely formal matters, s/he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying before this commission in behalf of his/her client.

(4) The commission shall make arrangements to have all appeal hearings suitably recorded and preserved. Upon a motion of a party filed at least seven days prior to the hearing, the commission may approve the recording and transcription of any hearing by a court reporter hired by a party provided that such party shall furnish the commission and the opposing party a copy of the transcript at no cost and the party supplying the court reporter and the court reporter agree that such transcript retained by the commission shall be available for inspection and copying by the public pursuant to chapter 610, RSMo. The commission may adopt the resulting transcript as the official record of the proceeding.

(5) The fundamental rules of evidence will apply at hearings before the commission.

(6) In computing any period of time prescribed or allowed by these rules, by order of the commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(7) When by these rules or by a notice given thereunder or by order of the commission an act is required or allowed to be done at or within a specified time, the commission for cause shown may at any time in its discretion 1) with or without motion or notice order the period enlarged if request is made before the expiration of the period originally prescribed or as extended by previous order or 2) upon notice and motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but the commission may not extend the time for taking any action under rules 12 CSR 30-2.021(1)(A); 12 CSR 30-3.021(1)(C); 12 CSR 30-3.005—Appeals of the Assessment of Real Property to the Local Board of Equalization Under the Two-Year Assessed Value Cycle; 12 CSR 30-3.010—Appeals from the Local Board of Equalization; 12 CSR 30-3.020—Intervention; or 12 CSR 30-3.025—Collateral Estoppel.

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(8) Any complaint, correspondence, routine motion or application for review shall be accepted for filing by electronic transmission. Electronic filings received by the commission before 5:00 p.m. of a regular workday are deemed filed as of that day. Filings received after 5:00 p.m. are deemed filed on the next regular commission workday. Time of receipt is determined by the commission's facsimile machine or computer. The time when transmission began shall be used to determine if transmission occurred prior to 5:00 p.m. If a document is not received by the commission or if it is illegible, it is deemed not filed. Risk of loss in transmission, receipt or illegibility is upon the party transmitting and filing by electronic transmission. The person filing a complaint, correspondence, motion, application for review or other filing by electronic transmission shall retain the signed filing and make it available upon order of the commission.

AUTHORITY: section 138.430, RSMo Supp. 2009. This rule was previously filed as 12 CSR 30-2.030. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 21, 1988, effective Sept. 11, 1988. Rescinded and readopted: Filed May 14, 1991, effective Oct. 31, 1991. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996. Rescinded and readopted: Filed June 12, 2002, effective Nov. 30, 2002. Amended: Filed Oct. 7, 2004, effective May 30, 2005. Amended: Filed Dec. 21, 2007, effective June 30, 2008. Amended: Filed Oct. 2, 2008, effective May 30, 2009. Amended: Filed April 28, 2009, effective Nov. 30, 2009. Amended: Filed Dec. 21, 2009, effective June 30, 2010. Amended: Filed January 27, 2011, effective July 30, 2011.

12 CSR 30-3.015 Orders of the Commission Under the Two-Year Assessed Value Cycle

PURPOSE: This rule establishes the procedure for implementing commission decisions under the two-year assessed value cycle for real property.

(1) In an appeal to the commission from the local board of equalization, the decision and order issued by the commission shall set the assessed value of the real property which is the subject of the appeal for both the first year of the two (2)-year cycle (odd-numbered year) and the second year of the two (2)-year cycle (even-numbered year), unless one (1) of the following conditions are met:

(A) The taxpayer did not file an appeal of his/her assessment to the commission in the odd-numbered year; or

(B) At the hearing before the commission or one (1) of its hearing officers on the appeal of the odd-numbered year's assessment, the assessor or the taxpayer presents evidence which shows that there has been new construction or property improvements to the subject property as defined in 12 CSR 30-3.001 during the odd-numbered year.

(2) A decision and order issued by the commission which sets the assessed value of a property for both years of the two (2)-year cycle shall be implemented for the even-numbered year as follows:

(A) If the decision and order is issued and becomes final prior to the assessor returning the assessor's book for the even-numbered year to the county governing body, the assessor shall enter the assessed value as determined by the commission into the assessor's book;

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(B) If the decision and order is issued and becomes final after the assessor returns the assessor's book for the even-numbered year to the county governing body but before the local board of equalization issues a decision on an appeal of the assessment to it in the even-numbered year, the local board of equalization shall issue its decision based on the assessed value as determined by the commission; and

(C) If the decision and order is issued and becomes final after the local board of equalization issues a decision on an appeal of an assessment to it in the even-numbered year, if the assessed value is changed by the commission, the county clerk shall enter the assessed value as determined by the commission in the supplemental tax book of the county for the even-numbered year.

AUTHORITY: sections 137.115.1. and 138.431.3., RSMo Supp. 1992. Original rule filed May 14, 1991, effective Oct. 31, 1991.

12 CSR 30-3.020 Intervention

PURPOSE: This rule establishes the procedure for nonparties to appear and be heard and for intervention.

(1) All persons affected or liable to be affected by review by the commission of any assessment, whether or not they are made parties to the appeal by intervention, may submit a memorandum setting forth their position on the issue(s) in the given appeal, and serve a copy of same upon counsel for the parties or upon the parties if there is no counsel. However, nonparties are not entitled to notice of hearings and decisions, except as provided generally by section 610.020, RSMo, unless they are made designated persons by the complainants as provided by section 536.067(3), RSMo. Nonparties are not entitled to take depositions, nor entitled to the issuance of subpoenas nor to introduce exhibits, testify, or cross-examine witnesses.

(2) Any person may apply for leave to intervene in any contested case before the commission by serving a motion for leave to intervene upon all then existing parties and upon the commission. The motion shall state the grounds for it and whether the applicant is seeking to intervene on behalf of the complainant or the respondent. The motion shall be filed within sixty (60) days of the time of the notice of institution of the case. Oral argument will be scheduled by the commission on the motion only if there is a written objection to the intervention filed by any party not later than fifteen (15) days after the filing of the motion to intervene. Upon its own motion, the commission, in any case, may order that oral argument be had on the issue of the proposed intervention. A separate motion must be filed for each contested case in which an applicant seeks to intervene.

(3) An applicant may be granted permission to become an intervenor based upon a balancing of the nature and the extent of the interest of all of the complainants, respondents, intervenors and applicants in the appeal. For example, in the case of an appeal filed pursuant to section 138.430, RSMo, the commission may grant an applicant the status of intervenor based upon the following five (5) interests if they are found to weigh in balance in favor of the applicant:

(A) Substantially all of the applicant's operating revenues are derived from *ad valorem* tax revenues;

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(B) If the decreases in assessed valuation paid by the complainants and against which the tax rate established by the applicant will be applied are granted by the commission, then decreases in assessed valuation will reduce the tax revenues available for distribution to the applicant;

(C) A reduction in the tax revenues will have a direct and immediate impact upon the applicant;

(D) The respondent, an existing party, may not adequately represent the interests of the applicant; and

(E) The complainants will not be prejudiced by intervention nor will they be precluded from protecting or asserting their interest in decreases in assessed valuation.

(4) For the purpose of this rule, person is defined as provided by section 1.020, RSMo.

AUTHORITY: sections 138.430 and 536.063(1), RSMo 200 and Article X, section 14, Mo. Const. 1945. This rule was previously filed as 12 CSR 30-2.050. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Oct. 7, 2004, effective May 30, 2005.*

12 CSR 30-3.025 Collateral Estoppel

PURPOSE: This rule explains when a taxpayer may ask the commission to review a local assessment of real property.

(1) For the purpose of appeal under 12 CSR 30-3.010, each year's tax assessment shall constitute a separate cause of action which the taxpayer may appeal. The value of the subject property will be determined by the method set out in 12 CSR 30-3.001.

(2) Except as set in section (3), the taxpayer shall be allowed to litigate the issue of the assessed valuation of the subject property only once in each two (2)-year assessment cycle established by section 137.115, RSMo. For the purposes of this rule, "taxpayer," unless more specifically described, shall mean the owner or holder of the property which is the subject of the appeal and the successor in title or interest of such owner or holder. "Litigate the issue of assessed valuation" shall mean prosecute an appeal to either a final decision on the merits or to a stipulation resolving the appeal. The assessed value established by the commission for the odd-numbered year also shall be the assessed value for the following even-numbered year.

(A) The commission shall determine the appropriate assessed value of the subject property based on economic conditions present in the market on January 1 of the odd-numbered year and shall resolve all issues presented in the appeal for the odd-numbered year.

(B) Except in those instances in section (3) when the taxpayer is allowed to litigate the issue of assessed value in the even-numbered year, the commission shall rule summarily on the appeal filed for the even-numbered year using the assessed value so established for the previous odd-numbered year.

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(3) The taxpayer may be allowed to litigate the issue of assessed valuation of the subject property more than once in each two (2)-year assessment cycle if a verified statement filed with his/her appeal states facts which demonstrate that the commission should reconsider the appropriateness of the valuation. Facts which demonstrate that the appropriateness of the valuation should be reconsidered are—

(A) When the assessor or board of equalization should have decreased the assessed value of the subject property for January 1 of the even-numbered year in the two (2)-year assessment cycle pursuant to 12 CSR 30-3.001, but failed to do so; or

(B) When the assessor or board of equalization raises the assessed value of the subject property for January 1 of the even-numbered year in the two (2)-year assessment cycle pursuant to 12 CSR 30-3.001.

(4) A taxpayer who fails to appeal the assessed value in the odd-numbered year does not waive his/her right to appeal the assessed value in the even-numbered year. Any decision on the appeal of the assessment for the even-numbered year shall affect only the even-numbered year's assessment.

AUTHORITY: sections 138.320, 138.431, and 138.432, RSMo 2000 and sections 137.115 and 138.430, RSMo Supp. 2009. Original rule filed May 14, 1991, effective Oct. 31, 1991. Amended: Filed July 19, 2000, effective Feb. 28, 2001. Amended: Filed Dec. 21, 2009, effective June 30, 2010.

12 CSR 30-3.040 Subpoenas and Discovery

PURPOSE: This rule establishes the methods to be used by a party to a proceeding before the commission to obtain discovery and subpoenas, and the commission's authority to enforce such discovery and subpoenas.

(1) Requests for subpoenas shall be in writing, state the caption of the case and the party requesting the subpoena shall provide for service upon the witness no less than seven (7) days before the date of the deposition or hearing, unless extraordinary circumstances dictate a shorter time.

(2) In addition to section (1), a subpoena duces tecum specifically shall name the person to testify, state with particularity the exact records, documents or parts of documents to be produced and state the reasons the production of those documents is believed to be material and relevant to the proceedings.

(3) Subpoenas shall be signed and issued by a commissioner or by the secretary of the commission. Subpoenas duces tecum shall be issued by the commission or by a commissioner.

(4) The scope and service of all subpoenas and the recompense of witnesses shall be as provided by section 138.360, RSMo.

(5) Subpoenas of the commission shall be enforced as provided by section 536.077, RSMo.

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(6) Parties may obtain all available discovery in the same manner as the Missouri Supreme Court rules provide for civil actions in circuit court. The commission may, by order, enforce discovery for cause shown by the same methods, terms and conditions as provided by the Missouri Supreme Court rule in civil actions in the circuit court, except as may otherwise be required by law.

(7) No party shall serve on any other party more than twenty (20) interrogatories in the aggregate without leave of the commission or hearing officer or consent of opposing counsel. Subparagraphs of any interrogatory shall relate directly to the subject matter of the interrogatory and shall not exceed two (2) in number. Any party desiring to serve additional interrogatories shall first communicate in writing with opposing counsel concerning the matter. If the parties do not reach an agreement as a result of such communication, a party may file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for the additional interrogatories. A copy of the written communication to opposing counsel shall be attached to the motion.

AUTHORITY: sections 138.360, 138.430, 536.073 and 536.077, RSMo 1994 and Article X, section 14, Mo. Const. 1945. This rule was previously filed as 12 CSR 30-2.060 and 12 CSR 30-2.065. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Aug. 23, 1995, effective Jan 30, 1996.

12 CSR 30-3.050 Procedure: Motions and Stipulations

PURPOSE: This rule prescribes the procedure for the filing of certain motions and the use of certain stipulations in appeals taken under section 138.430, RSMo.

(1) Any party filing a written motion or other writing subsequent to the original complaint shall serve a copy of that writing upon the attorney of record for all remaining parties or upon the party him/herself if there is no attorney of records. Service shall be made by delivering a copy of the writing to the attorney or party—by leaving a copy of that writing with personnel at the attorney's office, by transmitting a copy by electronic transmission provided the filing party subsequently mails a copy of the writing to the attorney or party, or by mailing a copy of the writing. The person filing a motion, or other writing by electronic transmission shall retain the signed filing and make it available upon order of the commission.

(2) Any written motion which is appropriately filed prior to the hearing, except a motion to dismiss which may be filed at any time, shall be filed with the commission and served on all remaining parties such that each has not less than five (5) days' notice before the date specified for the event which stands to be affected by the motion. A filing which does not provide for five (5) days' notice to the parties will be denied unless there is a showing that despite the exercise of due diligence, a timely filing was not possible.

(3) Upon the commission or hearing officer's own motion, or the motion of a party, an appeal may be dismissed for any of the following grounds:

- (A) Lack of jurisdiction;
- (B) Untimely filing of an appeal;
- (C) Failure to comply with the rules of the commission relating to appeals;

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- (D) Failure of prosecution; or
- (E) Any other ground alleged to legally justify an involuntary dismissal of an appeal.

(4) Any party may file a written motion for summary judgment upon allegations that there are no material issues of fact requiring an evidentiary hearing before this commission.

(5) Upon stipulation of all parties, and approval by the commission or hearing officer, an appeal may be decided upon written stipulation of facts in lieu of an oral hearing.

(6) Any party may file a written motion for a continuance not less than five (5) days before the date specified for the event which stands to be affected by the motion. Continuances will be granted for good cause shown as—

- (A) Illness of attorneys or witnesses;
- (B) Serious illness or death of immediate family members of attorneys or witnesses; or
- (C) Prior commitments of attorneys or witnesses.

1. The prior commitment must be substantial and must have been extant at the time the commission conference, exhibit ex-change, hearing, or other event was set.

2. Case settings which occur after the commission setting will not suffice to allow a continuance. Each attorney is responsible for notifying the relevant tribunal of the conflict at the time counsel obtains a trial or hearing setting.

(7) A second request for a continuance by a party will be denied except in extraordinary circumstances.

(8) Any complainant may make a written request for a voluntary dismissal of an appeal at any time prior to the issuance of a decision and order by the hearing officer. The parties to an appeal may stipulate and agree as to proper assessed value for the subject property, subject to a confirmation by this commission, prior to the issuance of a final decision and order.

(9) 12 CSR 30-3.010(1)(C)2. is controlling in determining whether a written motion or other writing is filed within the time prescribed by law.

AUTHORITY: section 138.430, RSMo 2000 and Article X, section 14, Mo. Const. 1945. This rule was previously filed as 12 CSR 30-2.070. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 21, 1988, effective Sept. 11, 1988. Amended: Filed May 14, 1993, effective Jan. 13, 1994. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996. Amended: Filed Oct. 7, 2004, effective May 30, 2005.

12 CSR 30-3.060 Exchange of Exhibits, Prefiled Direct Testimony and Objections

PURPOSE: This rule describes the procedures for the exchange of exhibits and prefiled direct testimony between the parties, and filing objections to the admission of exhibits or testimony.

(1) The commission, or hearing officer, may order the exchange of exhibits and written direct testimony of all witnesses in advance of the prehearing conference. The order shall establish a schedule of deadlines and other requirements. The written testimony shall be in question and

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answer form, unless for good cause shown the commission or hearing officer approves narrative form, and shall be presented instead of the witness's oral direct testimony. After an exhibit containing the witness's testimony has been properly identified and authenticated by the witness, under oath, it may be marked and introduced as an exhibit. Written direct testimony must be as complete and accurate as if it were oral testimony, and it is subject to the same rules of evidence as if given orally. The witness shall be subject to cross-examination. Direct testimony will not be allowed at the hearing unless the written direct testimony has been filed and served on all parties the same as any other exhibit, or unless the parties have stipulated that it may be accepted by the commission at the hearing and the commission or hearing officer, after good cause shown, allows it. A party who opposes the introduction of written testimony may file a written objection and/or motion to strike, in accordance with the schedule set by the commission or hearing officer for such responses. Upon proper filing of an objection to written testimony, the commission or hearing officer will make an appropriate ruling on the matter. The purpose of this rule is to allow for full and fair cross-examination at the evidentiary hearing. Any exhibit or written direct testimony which has not previously been exchanged in accordance with this rule will be excluded from admission into evidence at the evidentiary hearing. This shall not preclude the offering of evidence based upon a sale of the subject property which occurs after an exchange of exhibits takes place, or other exhibits and related testimony which were not available at a time such that they could have been exchanged on the exchange date.

(2) In appeals pertaining to the assessment of business personal property, the commission shall issue scheduling orders. Unless judicial economy or fairness dictates otherwise, a scheduling order for personal property appeals shall include but is not limited to the following procedure—

(A) Initial Discovery Period. This time frame shall commence before and extend after the list and complete description of the subject property is provided and may be used to gather pertinent information which allows for full and complete preparation of a party's case-in-chief. During this period, the complainant shall be required to provide—

1. Access to the subject personal property. The complainant must provide reasonable access to the property. The parties are urged to agree to a simultaneous inventory by appraisers of both parties; however, if this proves to be impracticable, the appraiser for the respondent must be given a reasonable amount of time and adequate cooperation to thoroughly inspect and inventory the subject property.

2. List of appealed property. The complainant, by a date certain, shall provide a list and complete description of the personal property, and said description shall include but not be limited to the acquisition cost and the date of acquisition of each item of personal property. Such list shall be forwarded to the commission and the respondent;

(B) Simultaneous Exchange of Exhibits. The parties shall simultaneously exchange the original of all exhibits to be used in their case-in-chief and serve upon opposing counsel a copy of same. Complainant's exhibits shall be marked with letters beginning with the letter A, with the appeal number. Respondent's exhibits shall be marked with numbers beginning with the number 1, with the appeal number. Exhibits filed with and retained by the commission should be no larger than eight and one-half by eleven inches (8½" x 11"), although for purposes of demonstration at the hearing, the parties may use larger copies of the submitted exhibits. Exhibits which consist of

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photographs shall be affixed to or copied on eight and one-half by eleven inch (8½" x 11") paper, and each photograph shall be identified in a brief statement or phrase on the face of the exhibit. More than one (1) photograph may be placed on one (1) page, if space so permits to identify each photograph;

(C) Written Direct Testimony. Parties shall file with the commission the original of written direct testimony of each witness expected to be called for the party's case-in-chief, and serve upon opposing counsel or party a copy of the same. Written direct testimony shall be in a question and answer form with each question numbered sequentially, typed on eight and one-half by eleven inch (8½" x 11") paper. Written direct testimony must be as complete and accurate as if it were oral testimony; and

(D) Additional Discovery Period. In addition to the initial discovery period, the scheduling order shall provide for a second period of discovery after the exchange of exhibits. The additional discovery period shall be short and limited in scope to the workfiles, as defined by the Uniform Standards of Professional Appraisal Practice (USPAP) and to the deposition(s) of appraiser(s). Upon request of the opposing party and at the cost of the party providing the workfile, each party shall forward to the requesting party, within twenty (20) days of the request, a copy of the workfile related to the exchanged appraisal. The workfile provided shall contain the specific data required in the USPAP standard, not contain extraneous materials which would hinder an efficient examination of the materials, and shall be a hard copy or in a format agreed to by the opposing party.

(3) After compliance with the scheduling order as set out in section (2), an evidentiary hearing will be scheduled. The order scheduling the evidentiary hearing shall require all appraisers to have their workfile present and accessible at hearing.

(4) Sanctions. Upon finding that a party has not complied with a provision of a scheduling order, the commission shall exact sanctions, which may include exclusion of the offending party's evidence or dismissal of the appeal.

AUTHORITY: section 138.430, RSMo 2000. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Nov. 4, 1993, effective July 10, 1994. Rescinded and readopted: Filed Aug. 23, 1995, effective Jan. 30, 1996. Amended: Filed Dec. 29, 2005, effective Aug. 30, 2006.

12 CSR 30-3.065 Appraisal Evidence

PURPOSE: This rule describes the suggested content and guidelines for the composition of appraisal reports as exhibits and is consistent with sections 339.500 to 339.549, RSMo which limit who may provide real property appraisal services for a fee in hearings before the State Tax Commission.

(1) As used in this rule, a "complete narrative appraisal report" for real property should be paginated for easy reference and should contain the following elements:

(A) A narrative introduction, including:

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1. A statement of purpose, including a statement of the property interest being valued;

2. A description of the subject property including, but not limited to, a legal description of the property and any leasehold interests; address, locator number where applicable; land and improvement area; zoning, topography and neighborhood;

3. A statement of the highest and best use of the subject property; and

4. An opinion of the true value in money of the subject property;

(B) A statement of the recognized approaches to value with a statement of why each approach was or was not used.

1. An income approach should include:

A. A complete reconstructed income and expense statement for the subject property showing economic or market values for each of the following elements:

(I) Potential gross income;

(II) Vacancy and collection loss;

(III) Miscellaneous income;

(IV) Effective gross income;

(V) Operating expenses; and

(VI) Net operating income;

B. The capitalization method and rate used including all calculations, a narrative explanation of why the capitalization method is appropriate and an explanation of each element of the selected method;

C. A statement of the applicable tax levy rate;

D. Sources of actual and market expense, income and capitalization rate figures and verification for each; and

E. A final indication of value.

2. A sales comparison approach should include:

A. The name of the owner(s), the location, date of sale, conditions of sale, land and improvement areas, sales price and source of information for each comparable sale;

B. A narrative explanation of why the comparable properties were selected for use;

C. A statement that the sales have been verified and by and with whom they were verified;

D. A specific listing of adjustments made; and

E. A final indication of value including a narrative explanation of why that value was chosen.

3. A cost approach should include:

A. An opinion of the value of the subject land and a description of the methodology used to arrive at that opinion;

B. A narrative explanation of whether the replacement cost or the reproduction cost was used and why;

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C. An estimate of the reproduction cost or replacement cost new, including the method used and sources employed to arrive at that estimate;

D. The amount and type of depreciation applied with a narrative explanation of why the depreciation was applied and the methods employed; and

E. A final indication of value.

4. Any other approach to value used should be explained with sufficient specificity to allow all other parties to reconstruct the approach used. A narrative explanation of why the approach was used should be included;

(C) A final opinion of value which correlates all approaches used including a narrative explanation of any weighing process used to arrive at that final opinion of value; and

(D) The signature of the appraiser.

(2) As used in this rule, an appraisal report for personal property should, at a minimum, conform to Uniform Standards of Professional Appraisal Practice (USPAP) requirements for a summary appraisal.

(3) Beginning July 1, 1999, it will be unlawful for any person who is not licensed or certified by the Missouri Real Estate Appraisers Commission as provided in sections 339.500 to 339.549, RSMo, to, for a fee, develop and offer into evidence a real estate appraisal or appraisal report, as those terms are defined in section 339.503(1) and (4), before the commission unless such person is exempt from licensure and certification pursuant to section 339.501.5, RSMo Supp. 1998.

(4) Any appraisal or appraisal report, as those terms are defined in section 339.503 (1) and (4), which is filed with the commission or offered into evidence pursuant to 12 CSR 30-3.060 shall contain the Missouri Real Estate Appraisers Commission certificate or license number of the person or persons who developed the appraisal or appraisal report, or a statement setting forth the basis for exemption from licensure and certification for such persons pursuant to section 339.501.5, RSMo Supp. 1998. Any such appraisal or appraisal report failing to comply with this provision will be excluded from evidence at the evidentiary hearing on the valuation of the property under appeal.

(5) Any written direct testimony of a person, testifying as to an appraisal or appraisal report, as those terms are defined in section 339.503(1) and (4), which is filed with the commission or offered into evidence pursuant to 12 CSR 30-3.060 shall contain testimony stating the Missouri Real Estate Appraisers Commission certificate or license number of the person or persons who developed the appraisal or appraisal report, or a statement setting forth the basis for exemption from licensure and certification for such person or persons pursuant to section 339.501.5, RSMo Supp. 1998, of the person or persons whose written direct testimony is being offered into evidence. Any such written direct testimony failing to comply with this provision will be excluded from evidence at the evidentiary hearing on the valuation of the property under appeal.

AUTHORITY: sections 138.430 and 138.431, RSMo 2000. Original rule filed Aug. 23, 1995, effective Jan. 30, 1996. Amended: Filed March 30, 1999, effective Oct. 30, 1999. Amended: Filed Dec. 29, 2005, effective Aug. 30, 2006.

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PURPOSE: This rule describes the procedures for prehearing practice in appeals to the commission.

- (1) Upon its own motion or motion of a party, the commission may set a prehearing conference. Unless excused by the commission, the person who will actually handle the hearing shall attend the conference.
- (2) Parties or their attorneys shall attend prehearing conferences and be prepared to simplify issues; estimate length of hearing; and stipulate to uncontroverted facts, contents, authenticity, and the identification of exhibits.
- (3) The commission or hearing officer may make an order which recites the action taken at the conference and any agreements made by the parties as to any of the matters considered. The order shall control the subsequent course of the cause, unless later modified by the commission or hearing officer.
- (4) The location of prehearing conferences shall be as ordered by the commission or hearing officer.
- (5) Any natural person appealing his/her assessment may perform any action required or permitted by this rule without benefit of counsel.

AUTHORITY: section 138.430, RSMo 1994. This rule was previously filed as 12 CSR 30-2.040. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Nov. 4, 1993, effective July 10, 1994. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996.

12 CSR 30-3.075 Receipt of Evidence Indicating Value Greater than Assessor or Board—First Class Charter Counties

PURPOSE: This rule explains the procedures which hearing officers are to follow relative to evidence offered by assessors in first class charter counties which indicates a property value greater than the value that has been determined by the board of equalization or the assessor previously.

- (1) In any case in a first class charter county or a city not within a county, where the assessor presents evidence which indicates a valuation higher than the value finally determined by the assessor or the value determined by the board of equalization, whichever is higher, for that assessment period, such evidence will only be received for the purpose of sustaining the assessor's or board's valuation, and not for increasing the valuation of the property under appeal.

AUTHORITY: sections 138.060 and 138.430, RSMo 2000. Original rule filed Oct. 24, 2000, effective June 30, 2001.

12 CSR 30-3.080 Hearing and Disposition of Appeals

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PURPOSE: This rule explains how hearing officers are assigned to hear appeals and how appeals are finally disposed of by the commission.

(1) To hear and decide appeals pursuant to section 138.430, RSMo, the commission shall appoint one (1) or more hearing officers subject to supervision by the commission. In its discretion, the commission may reserve the appeals as it deems fit to be heard and decided by the full commission, and in cases the decision of the commission shall be final and subject to judicial review pursuant to section 138.470, RSMo.

(2) The commission as it deems fit, may assign the appeals to a hearing officer for disposition. A hearing officer, after affording the parties reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying or reversing the determination of the board of equalization, correcting any assessment which is unlawful, unfair, improper, arbitrary or capricious. The commission may reassign an appeal. All parties to an appeal shall be duly notified of the hearing officer's decision and order.

(3) The commission or hearing officer shall have all lawful means available to ensure the effective operation of a full and fair proceeding, the ethical conduct of persons practicing before it and compliance with all lawful orders of the commission. Any aggrieved person to such an action by the commission may seek recourse in circuit court as provided in Chapter 536, RSMo.

(4) Within thirty (30) days following the date of notification or mailing of a decision and order of a hearing officer, a party may file with the commission an application to have the decision and order reviewed by the commission pursuant to section 138.432, RSMo. Appeal to the full commission is prerequisite to judicial review.

(5) The commission may summarily allow or deny an application for review of a hearing officer decision.

(A) If the application is allowed, the commission may affirm, modify, reverse, deny or remand to the hearing officer the decision and order of the hearing officer on the basis of the evidence previously submitted or based on additional evidence taken before the commission. The commission promptly shall notify the parties of its decision and order, which decision and order shall then be subject to judicial review pursuant to section 138.470.4., RSMo.

(B) If the application is denied, the decision and order of the hearing officer is deemed to be the final decision of the commission for purposes of judicial review. The time limitations for judicial review in these cases shall run from the date of notice of mailing of the order of the commission denying the application for review.

AUTHORITY: *sections 138.430, 138.431 and 138.432, RSMo 1994. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996.*

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12 CSR 30-3.085 Mediation of Appeals

PURPOSE: This rule provides the parties with an alternative dispute resolution option for property tax appeals.

(1) Parties to an assessment appeal may agree to pursue mediation and file a request for an appeal to be submitted to mediation. Upon approval of the commission, such appeals will be placed on a mediation docket.

(2) If the parties reach a settlement agreement through the mediation process, the agreement shall be submitted to the commission for approval. If any or all of the appeal issues remain unresolved at the conclusion of the mediation period, the appeal will be placed on the hearing docket.

AUTHORITY: sections 138.430 and 138.431, RSMo 1994. Original rule filed July 15, 1999, effective Jan. 30, 2000.

12 CSR 30-3.090 Determining Class Life for Tangible Personal Property

PURPOSE: This rule sets out the publication assessors are to use when estimating value for depreciable tangible personal property for mass appraisal purposes.

(1) For purposes of assessors estimating the value of depreciable tangible personal property for mass appraisal purposes in accordance with section 137.122, RSMo, class life and recovery periods shall be determined by reference to Internal Revenue Service Publication 946—How to Depreciate Property or successor publications thereto. Specifically, class lives and recovery periods shall be determined by reference to Appendix B—Table of Class Lives and Recovery Periods. Class life shall be determined under Table B-1 and Table B-2 under the column—Class Life (in years). Recovery period shall be determined by the number corresponding to the Class Life number for given items of machinery, tools, appliances and equipment under the column—GDS (MACRS).

AUTHORITY: section 138.430, RSMo 2000. Original rule filed April 13, 2006, effective Oct. 30, 2006.

Title 12—DEPARTMENT OF
REVENUE
Division 30—State Tax Commission
Chapter 4—Agricultural Land Productive Values

12 CSR 30-4.010 Agricultural Land Productive Values

PURPOSE: This rule complies with the requirement of section 137.021, RSMo, to publish a range of productive values for agricultural and horticultural land for the ensuing tax year.

(1) Agricultural Land Grades and Values. The following are definitions of agricultural land grades and the productive values of each:

(A) Grade #1. This is prime agricultural land. Condition of soils is highly favorable with no

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limitations that restrict their use. Soils are deep, nearly level (zero to two percent (0–2%) slope) or gently sloping with low erosion hazard and not subject to damaging overflow. Soils that are consistently wet and poorly drained are not placed in Grade #1. They are easily worked and produce dependable crop yields with ordinary management practices to maintain productivity—both soil fertility and soil structure. They are adapted to a wide variety of crops and suited for intensive cropping. Use value: nine hundred eighty-five dollars (\$985);

(B) Grade #2. These soils are less desirable in one (1) or more respects than Grade #1 and require careful soil management, including some conservation practices on upland to prevent deterioration. This grade has a wide range of soils and minimum slopes (mostly zero to five percent (0–5%)) that result in less choice of either crops or management practices. Primarily bottomland and best upland soils. Limitations—

1. Low to moderate susceptibility to erosion;
2. Rare damaging overflows (once in five to ten (5–10) years); and
3. Wetness correctable by drainage. Use value: eight hundred ten dollars (\$810);

(C) Grade #3. Soils have more restrictions than Grade #2. They require good management for best results. Conservation practices are generally more difficult to apply and maintain. Primarily good upland and some bottomland with medium productivity. Limitations—

1. Gentle slope (two to seven percent (2–7%));
2. Moderate susceptibility to erosion;
3. Occasional damaging overflow (once in three to five (3–5) years) of Grades #1 and #2 bottomland; and
4. Some bottomland soils have slow permeability, poor drainage, or both. Use value: six hundred fifteen dollars (\$615);

(D) Grade #4. Soils have moderate limitations to cropping that generally require good conservation practices. Crop rotation normally includes some small grain (for example, wheat or oats), hay, or both. Soils have moderately rolling slopes and show evidence of serious erosion. Limitations—

1. Moderate slope (four to ten percent (4–10%));
2. Grade #1 bottomland subject to frequent damaging flooding (more often than once in two (2) years), or Grades #2 and #3 bottomland subject to occasional damaging flooding (once every three to five (3–5) years);
3. Poor drainage in some cases; and
4. Shallow soils, possibly with claypan or hardpan. Use value: three hundred eighty-five dollars (\$385);

(E) Grade #5. Soils are not suited to continuous cultivation. Crop rotations contain increasing proportions of small grain (for example, wheat or oats), hay, or both. Upland soils have moderate to steep slopes and require conservation practices. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));

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2. Grades #2 and #3 bottomland subject to frequent damaging flooding (more than once in two (2) years) and Grade #4 bottomland subject to occasional damaging flooding; and
3. Serious drainage problems for some soils. Use value: one hundred ninety-five dollars (\$195);

(F) Grade #6. Soils are generally unsuited for cultivation and are limited largely to pasture and sparse woodland. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));
2. Severe erosion hazards present;
3. Grades #3 and #4 bottomland subject to frequent damaging flooding (more than once in two (2) years), and Grade #5 bottomland subject to occasional damaging flooding (once every three to five (3–5) years); and
4. Intensive management required for crops. Use value: one hundred fifty dollars (\$150);

(G) Grade #7. These soils are generally unsuited for cultivation and may have other severe limitations for grazing and forestry that cannot be corrected. Limitations—

1. Very steep slopes (over fifteen percent (15%));
2. Severe erosion potential;
3. Grades #5 and #6 bottomland subject to frequent damaging flooding (more than once in two (2) years);
4. Intensive management required to achieve grass or timber productions; and
5. Very shallow topsoil. Use value: seventy-five dollars (\$75);

(H) Grade #8. Land capable of only limited production of plant growth. It may be extremely dry, rough, steep, stony, sandy, wet or severely eroded. Includes rivers, running branches, dry creek and swamp areas. The lands do provide areas of benefit for wildlife or recreational purposes. Use value: thirty dollars (\$30); and

(I) Definitions. The following are definitions of flooding for purposes of this rule:

1. Damaging flooding. A damaging flood is one that limits or affects crop production in one (1) or more of the following ways:

- A. Erosion of the soil;
- B. Reduced yields due to plant damage caused by standing or flowing water;
- C. Reduced crop selection due to extended delays in planting and harvesting; and
- D. Soil damage caused by sand and rock being deposited on the land by flood waters;

2. Frequent damaging flooding. Flooding of bottomlands that is so frequent that normal row cropping is affected (reduces row crop selection); and

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3. Occasional damaging flooding. Flooding of bottomland that is so infrequent that producing normal row crops is not compromised in most years.

(2) Forest Land and Horticultural Land. The following prescribes the treatment of forest land and horticultural land:

(A) Forest land, whose cover is predominantly trees and other woody vegetation, should not be assigned to a land classification grade based on its productivity for agricultural crops. Forest land of two (2) or more acres in area, which if cleared and used for agricultural crops, would fall into land grades #1–#5 should be placed in land grade #6; or if land would fall into land grades #6 or #7 should be placed in land grade #7. Forest land may or may not be in use for timber production, wildlife management, hunting, other outdoor recreation or similar uses; and

(B) Land utilized for the production of horticultural crops should be assigned to a land classification grade based on productivity of the land if used for agricultural crops. Horticultural crops include fruits, ornamental trees and shrubs, flowers, vegetables, nuts, Christmas trees and similar crops which are produced in orchards, nurseries, gardens or cleared fields.

AUTHORITY: section 137.021, RSMo 2000. Original rule filed Dec. 13, 1983, effective March 12, 1984. Rescinded and readopted: Filed Oct. 17, 1984, effective April 11, 1985. Amended: Filed Nov. 15, 1985, effective May 11, 1986. Amended: Filed Sept. 3, 1986, effective Dec. 1, 1986. Emergency amendment filed Nov. 8, 1988, effective Dec. 31, 1988, expired Feb. 28, 1989. Amended: Filed Nov. 8, 1988, effective Jan. 27, 1989. Amended: Filed Sept. 17, 1990, effective Feb. 14, 1991. Amended: Filed Oct. 13, 1992, effective June 7, 1993. Amended: Filed Sept. 15, 1994, effective March 30, 1995. Amended: Filed Nov. 15, 1996, effective June 30, 1997. Amended: Filed Dec. 28, 1999, effective July 30, 2000. Amended: Filed Dec. 29, 2003, effective June 30, 2004. Amended: Filed Dec. 29, 2005, effective Aug. 30, 2006. Amended: Filed Dec. 21, 2007, effective June 30, 2008.