

State Tax Commission Annual Report – 2005

CHAPTER I

THE HISTORY, NATURE AND FUNCTION OF THE STATE TAX COMMISSION

A. History of the State Tax Commission.

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

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

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

B. Nature and Organization of the State Tax Commission.

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

The staff of the Commission is divided into five sections:

- (1) Administration;
 - (2) Legal;
 - (3) Ratio Study;
 - (4) Original Assessment; and
 - (5) Technical Assistance.
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- (1) The Administration Section is under the direction of the Administrative Secretary, who is charged with the statutory duty to superintend the clerical business of the Commission, handle correspondence, supervise general office procedures, implement Commission policy, and perform such other duties as the Commission prescribes.
 - (2) The Legal Section is under the direction of the Chief Counsel, who is charged with the responsibility to render legal advice to the commission, handle litigation involving the State Tax Commission in the courts and coordinate legal matters with the Attorney General's Office. The Chief Counsel also has the duty of overseeing the attorneys who conduct hearings in assessment appeals before the Commission and assisting the Commission in the preparation of decisions and orders, including findings of fact and conclusions of law, in individual assessment appeals.
 - (3) The Ratio Study Section is charged with conducting ongoing ratio studies to verify assessment levels for equalization purposes. The section has a manager as well as clerical and field personnel.
 - (4) The Original Assessment Section is charged with the Commission's annual duty to assess distributable property held by public utilities, railroads and other related entities.
 - (5) The Technical Assistance Section is composed of a manager and field staff whose primary duty is to assist counties in implementing their maintenance program and to provide additional assistance in any matters pertaining to assessment practices.

The State Tax Commission currently has 58.75 authorized employees to perform its constitutional and statutory responsibilities.

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C. Functions of the State Tax Commission

(1) Supervision of Assessment Practices and Equalization.

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

Section 138.410.1 provides this connection:

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

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

In implementing its supervisory role, the Commission is in constant contact with the assessors of the state, communicating administrative, legal, appraisal and technical advice to assist assessors in the performance of their duties.

This supervisory role is also evidenced by certain statutes relating to specific assessment areas. Under Section 138.235.2, the Commission is charged to see that leased tangible personal property in the state is properly taxed. In addition, a member of the Commission or some duly authorized representative thereof, must officially visit the several counties of the state at least once each year and inquire into methods of assessment. Section 138.415. The Commission also has the authority to convene a hearing concerning the assessment on any parcel in the state to ensure that all assessments have been made in compliance with law. Sections 138.460 and 138.470. The Commission is also charged with making and forwarding to the county clerks forms and instructions for carrying the property tax into effect. Section 138.320. However, it should be noted that the Commission is specifically prohibited from supervising "the fixing of any tax levied or to be levied" by any political subdivision or taxing authority in the state. Section 138.340.1.

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

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

(2) Assessment Appeals in Individual Cases

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As previously noted, one of the constitutional duties imposed upon the Commission is the hearing of assessment appeals in individual cases. Any taxpayer who thinks himself aggrieved by the assessment of his property may appeal from the assessor to the board of equalization, in person, by attorney or agent, or in writing. Section 137.275. The county board of equalization meets annually in every county of the state to consider such appeals. In counties of the second, third and fourth class, the county board of equalization shall meet on the second Monday of July of each year to consider complaints filed by taxpayers in individual cases. In years of general reassessment the boards of equalization may begin meeting after May 31st to consider complaints. Section 138.010. The board of equalization can also on its own volition raise the valuation of any property, and taxpayers who are affected by such action of the board, may be heard before the board in second, third and fourth class counties on the second Monday in August. Section 138.050(1). In first class counties, the board of equalization shall meet on the first Monday of June each year (Section 138.090) and operate until the last Saturday in July of each year. Section 138.100.2. In years of general reassessment the boards of equalization in first class counties may convene after May 31st of each year. Section 138.090.2. In the City of St. Louis, the board of equalization meets on the third Monday in May, annually, and remains in continuous session for four weeks. Section 138.170. Appeals from decisions of the board in second, third and fourth class counties must be filed with the Commission by September 30th of the year of assessment or within 30 days of the decision of the board of equalization, whichever is later. Section 138.460.2; C.S.R. 30-3.010. Appeals from decisions of the board in first class counties and the City of St. Louis must be filed with the Commission by August 15th of the year of assessment or within 30 days of the decision of the board of equalization, whichever is later. Section 138.110; 12 C.S.R. 30-3.010. Appeals generally are heard by a hearing officer of the Commission. A record of the proceedings is prepared and a decision and order including full findings of fact and conclusions of law is thereafter issued.

It should be noted that any assessment appeal decision of the Commission is reviewable in court under the provisions of Section 138.470.4.

(3) Original Assessment

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

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

(4) Ratio Study

Under Section 138.395, the Commission annually certifies the equivalent sales ratio for each county in the state to the Commissioner of Elementary and Secondary Education. These ratio studies are based upon the random sampling and appraisal of real property parcels in every county of the state and are designed to gauge the actual real property assessment level in the counties. The results of the ratio studies are analyzed statistically to measure the assessment level, uniformity, and quality of assessments in the counties of the state.

(5) Inter-County Equalization

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Under Sections 138.390 and 138.400, the State Tax Commission must equalize the aggregate valuation as between counties of certain "subclasses" of real and tangible personal property.

(6) Miscellaneous Functions

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

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