



STATE OF KANSAS

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August 12, 1981

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ATTORNEY GENERAL OPINION NO. 81-187

Eugene Bryan, Jr., CKA
McPherson County Appraiser
P.O. Box 530
McPherson, Kansas 67460

Re: Taxation--Listing and Valuation of Real Property--
Lands or Improvements Omitted from Rolls

Synopsis: In determining the assessment of real property under
K.S.A. 79-417, the county clerk should seek assistance
from the county appraiser.

It is the date upon which the county clerk discovers
that real property has been omitted from the assessment
and tax rolls that determines upon which year's
assessment and tax rolls the property is to be placed.
If the discovery is made on or after November 1 and
prior to January 1, the property is to be placed on
the assessment and tax rolls of the next tax year.
If the discovery is made on or after January 1 and
prior to November 1, the property is to be placed
on the assessment and tax rolls of the current tax
year. Cited herein: K.S.A. 19-430, 19-432, 79-408,
79-417, 79-1412a, Second, Eighth, 79-1801, as amended
by L. 1981, ch. 380, §2, 79-1803, as amended by L.
1981, ch. 379, §2, 79-1804, 79-2001, as amended by
L. 1981, ch. 173, §78, K.S.A. 1980 Supp. 79-2004.

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Dear Mr. Bryan:

You seek an opinion on three questions concerning K.S.A. 79-417,
which provides:

"It shall be the duty of the county clerks in all cases where any lands or improvements in their respective counties for any reason have not been assessed for taxation or have escaped taxation for any former year or years when the same were liable to taxation, to place the same upon the assessment and tax rolls, and to charge against said lands or improvements taxes equal to and in accordance with the tax levies that would have been charged against said lands or improvements had they properly been listed and assessed at the time they should have been assessed under the provisions of the general laws governing the assessment and taxation of land: Provided, That no lands or improvements shall be assessed under the provisions of this section, where the same have changed ownership other than by will, inheritance or gift."

You inquire:

"1. If it is discovered that property has not been assessed in any tax year and should have been, how shall the county clerk proceed to determine what assessment should be placed on such property?

"2. After having determined the assessment to be placed on such omitted property, when and upon what tax roll should the clerk place such omitted property?

"3. If such omitted property is to be entered on the tax rolls immediately, in the case of property which has been omitted for a period of more than one year, does the county treasurer have the right to 'close' her books during any part of the year and refuse to send out a tax statement for such omitted property once the request for such tax statement is given by the county clerk?"

In response to your first inquiry, we are of the opinion the county clerk, in determining the assessment of property under K.S.A. 79-417, should seek the assistance of the county appraiser. The county appraiser is the official who is trained to appraise property (K.S.A. 19-430 and 19-432) and who is required to "carry on continuously throughout the year the process of appraising real property." K.S.A. 79-1412a, Eighth.

Your other inquiries concern the period of time during which real property that was omitted from the assessment and tax rolls is to be placed on those rolls. Also, upon which year's rolls the property is to be placed.

The taxation of real property, including the listing and valuation of such property is to be accomplished, by statute, on a yearly basis. That is, each year a new assessment roll is to be prepared by the county clerk and delivered to the county appraiser. K.S.A. 79-408. As delivered to the county appraiser, the assessment roll is to contain a correct and pertinent description of each piece, parcel or lot of real property. Id. Upon delivery of the roll, the county appraiser assesses the property listed on the roll. K.S.A. 79-408 and 79-1412a, Second. The county appraiser is required to complete the assessment of real property and deliver the assessment roll to the county clerk not later than March 31 of each year. K.S.A. 79-408.

Based upon the assessed values of real property reported by the appraiser, as adjusted by the county board of equalization and the state board of tax appeals, and the amount of taxes certified to the county clerk (K.S.A. 79-1801, as amended by L. 1981, ch. 380, §2 and K.S.A. 79-1803, as amended by L. 1981, ch. 379, §2), the county clerk prepares the tax roll. The tax roll is required to be completed and delivered to the county treasurer "on or before November 1." K.S.A. 79-1803, as amended by L. 1981, ch. 379, §2. Each year, after receipt of the tax roll from the county clerk and before December 15, the county treasurer is required to mail to each taxpayer, as shown on the rolls, a tax statement. K.S.A. 79-2001, as amended by L. 1981, ch. 173, §78. The real property taxes shown on the tax roll are "due on the first day of November of each year" (K.S.A. 79-1804), although said taxes are not delinquent until December 21. K.S.A. 1980 Supp. 79-2004.

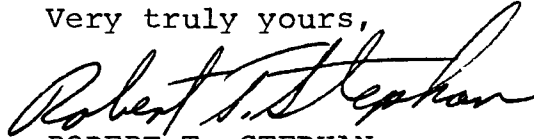
Under the statutory procedure outlined above, the tax roll must be completed on or before November 1. After that date, the tax roll is no longer in the care and custody of the county clerk. Thereafter, the only phase of the taxing process for that particular tax year which remains to be completed is the collection process. See, e.g., Mobil Oil Corporation v. Medcalf, 207 Kan. 100, 107 (1971). In our judgment, November 1 is the date beyond which no adjustments may be made in either the assessment roll or the tax roll, under K.S.A. 79-417.

Thus, in our judgment, it is the date upon which the county clerk discovers that real property has been omitted from the assessment and tax rolls that determines upon which year's

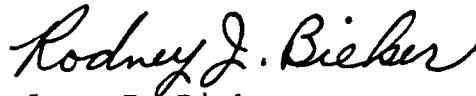
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assessment and tax rolls the property is to be placed under the provisions of K.S.A. 79-417. If the discovery is made on or after November 1 and prior to January 1, the property is to be placed upon the assessment and tax rolls of the next tax year. If the discovery is made on or after January 1 and prior to November 1, the property is to be placed upon the assessment and tax rolls of the current tax year.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm