

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 219

90TH GENERAL ASSEMBLY

1999

S0934.04T

AN ACT

To repeal sections 137.100, 137.130, 137.720, 137.750, 138.430 and 138.431, RSMo 1994, relating to ad valorem taxation, and to enact in lieu thereof seventeen new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 137.100, 137.130, 137.720, 137.750, 138.430 and 138.431, RSMo 1994, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 137.100, 137.130, 137.720, 137.750, 137.1000, 137.1003, 137.1006, 137.1009, 137.1012, 137.1015, 137.1018, 137.1021, 137.1024, 137.1027, 137.1030, 138.430 and 138.431, to read as follows:

137.100. The following subjects are exempt from taxation for state, county or local purposes:

- (1) Lands and other property belonging to this state;
- (2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments, and on public squares and lots kept open for health, use or ornament;
- (3) Nonprofit cemeteries;
- (4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state, **including not-for-profit agribusiness associations**;
- (5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;

(6) Household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place.

137.130. Whenever there shall be any taxable **personal** property in any county, and from any cause no list thereof shall be given to the assessor in proper time and manner, the assessor shall [himself] make out the list, on [his] **the assessor's** own view, or on the best information [he] **the assessor** can obtain; and for that purpose [he] **the assessor** shall have lawful right to enter into any lands and make any examination and search which may be necessary, and may examine any person upon oath touching the same. **The assessor shall list, assess and cause taxes to be imposed upon omitted taxable personal property in the current year and in the event personal property was also subject to taxation in the immediately prior year, but was omitted, the assessor shall also list, assess and cause taxes to be imposed upon such property.**

137.720. A percentage of all ad valorem property tax collections allocable to each taxing authority within the county and the county shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required [under] **pursuant to** section 137.750. The percentage shall be one-half of one percent for all counties of the first and second [class] **classification** and cities not within a county and one percent for counties of the third and fourth [class] **classification**. The county shall bill any taxing authority collecting its own taxes. The county may also provide additional moneys for the fund. To be eligible for state cost-share funds provided [under] **pursuant to** section 137.750, every county shall provide [all moneys necessary to assure that the fund is at least equal to the amount of moneys available for assessment purposes in the previous year] **from the county general revenue fund, an amount equal to an average of the three most recent years of the amount provided from general revenue to the assessment fund**, except that a lesser amount shall be acceptable if unanimously agreed upon by the county assessor, county governing body and the state tax commission. The county shall deposit the county general revenue funds in the assessment fund as agreed to in its original or amended maintenance plan, state reimbursement funds shall be withheld until the amount due is properly deposited in such fund.

137.750. 1. If a county has an assessment maintenance plan approved [under] **pursuant to** section 137.115, a portion of all the costs and expenses of the assessor of each county and each city not within a county, incurred for the current quarter in performing all duties necessary to assess and maintain equalized assessed valuations of real property, making real and personal

property assessments and preparing abstracts of assessment lists, shall be reimbursed by the state. The state shall reimburse up to **[one-half] sixty percent** of all the current and past unreported quarterly costs and expenses of the assessor of each county and each city not within a county based on compliance with the state tax commission approved assessment and equalization maintenance plan. The state shall reimburse each eligible county a minimum of three dollars per parcel for up to twenty thousand parcels, but no further reimbursements shall be made until the county has expended **[an equal] at least two-thirds of that** amount of money for assessment maintenance from its assessment fund. The **[maximum]** annual state reimbursement to any county **[under] pursuant to** this section in **[1986] 2000** shall not exceed **[five dollars and fifty cents] seven dollars** per parcel of real property in the county and each year thereafter such maximum amount may be increased by up to three percent, but the amount reimbursed by the state shall not exceed **[one-half] sixty percent** of the actual costs and expenses incurred, except that counties entitled to only the three-dollar per parcel minimum shall receive one-fourth of the state's contribution each quarter.

2. The governing body of each county and city not within a county which seeks or will seek reimbursement under any provision of this section or section 137.720 shall establish a fund to be known as the "Assessment Fund", to be used solely as a depository for funds received by the county or city pursuant to this section and sections 137.037 and 137.720, from the general revenue fund of the county or other sources for the purpose of funding the costs and expenses incurred in implementing an assessment and equalization maintenance plan approved under section 137.115 and for assessing real and personal property.

3. All counties and cities not within a county seeking state funds under this section shall submit a certified copy of their costs and expenses to the commissioner of the office of administration not later than the thirtieth day of the quarter immediately following the quarter for which such state funds are sought. The commissioner of the office of administration shall, in such form as may be prescribed by rule, certify that the county requests for reimbursement are consistent with the assessment and equalization maintenance plan approved by the state tax commission as provided in section 137.115, and shall pay the state's share out of funds appropriated for that purpose quarterly to each eligible county and city to reimburse such county or city for reimbursable costs and expenses incurred in the previous calendar quarter.

4. (1) The following costs and expenses shall not qualify for state reimbursement or reimbursement from tax moneys withheld from political subdivisions:

- (a) Premiums for property and casualty insurance and liability insurance;
 - (b) Depreciation, interest, building and ground maintenance, fuel and utility costs, and other indirect expenses which can be classified as the overhead expenses of the assessor's office;
 - (c) Purchases of motor vehicles;
- (2) Costs and expenses which shall qualify for state reimbursement, but only if identified

in the county maintenance plan and subsequently specifically approved by the state tax commission, shall include:

- (a) Salaries and benefits of data processing and legal personnel not directly employed by the assessor;
- (b) Costs and expenses for computer software, hardware, and maintenance;
- (c) Costs and expenses of any additional office space made necessary in order to carry out the county's maintenance plan;
- (d) Costs of leased equipment;
- (e) Costs of aerial photography.

137.1000. Sections 137.1000 to 137.1030 shall be known and may be cited as the "Private Car Ad Valorem Tax Law" and shall, notwithstanding the provisions of sections 137.975 to 137.985 to the contrary, apply to all taxable years beginning on or after January 1, 2000.

137.1003. As used in sections 137.1000 to 137.1030, the following terms mean:

- (1) "Commission", the state tax commission;**
- (2) "Director", the director of revenue;**
- (3) "Distributable property", all property which is used directly in the movement of passengers and freight, including railroad cars, but not property used as a collateral facility nor property held for purposes other than rail transportation;**
- (4) "Freight line company", any person, association, company or corporation, not being the owner or lessee of a railroad or street railway company, engaged in the business of furnishing or leasing any railroad cars except dining, buffet, chair, parlor, or sleeping cars, which are used in the operation of any railroad or street railway company wholly or partly within the state, or when owning and operating, or operating, any railroad freight, refrigerator or tank car on railway lines in this state for the transportation of his or its goods, wares, merchandise or products.**

137.1006. The commission shall have the exclusive power of original assessment of the distributable property of freight line companies.

137.1009. 1. The form for all reports required under sections 137.1000 to 137.1030 shall be prescribed and furnished by the commission.

2. If any freight line company refuses or fails to make and return the reports required by sections 137.1000 to 137.1030 within the time prescribed and without an extension of time, the commission shall increase by four percent the total assessed valuation of the distributable property of any such company, unless the commission, for good cause shown, waives such penalty.

3. Any such reports delivered by United States mail to the proper official or officer designated shall be deemed to be received as of the postmark date stamped on

the envelope or other cover in which such reports are mailed. In the event any report is sent by registered or certified mail, the date of registration or certification shall be deemed the postmark date. No penalty shall be imposed on any company whose reports are delivered by United States mail, if the postmark date stamped on the envelope or other cover containing such reports falls within the prescribed period or on or before the prescribed date, including any extension granted for making the report.

4. Every railroad or street railway company operating in this state shall file annually, on or before May first of each year, a true and accurate statement of the main line track mileage of such company in operation in each county of this state on December thirty-first of the preceding year, total mileage traveled on their track by railroad cars of the freight line companies and other information the commission may require for the purpose of carrying out its duties under sections 137.1000 to 137.1030. Such reports shall be made in such manner and form as prescribed by the commission.

5. In addition to the reports required by subsection 2 of this section, each freight line company shall file a similar report at the same time and in such manner as said commission shall prescribe showing the total mileage traveled on track from railroad and street railway companies, date and original cost of acquisitions and other information the commission may require for the purpose of carrying out its duties under sections 137.1000 to 137.1030.

6. In case any freight line company shall fail to make such report the commission may accept the report of said railroad or street railway company as correct.

137.1012. 1. The commission shall assess, adjust and equalize the aggregate valuation of the distributable property of each freight line company. For the purpose of estimating the true value in money of the distributable property of a freight line company, the commission may take into consideration the reports filed under section 137.1009, the reports, statements or returns of the company filed in the office of any board, office or commission of this state, or any county thereof, and such other evidence of any kind bearing thereon. No report, statement or return shall be conclusive upon the commission in estimating the true value in money of the operating property of a freight line company. The commission may set the aggregate valuation of the distributable property of any freight line company upon which no returns have been made, which may otherwise be known to them as they deem just and right.

2. The commission may summons witnesses by process issued to any officer authorized to serve subpoenas and compel them to testify.

3. In originally assessing, adjusting and equalizing any distributable freight line company property for any year or years, the commission may arrive at its findings, conclusion and judgement, upon its knowledge, or such information as may be before

it, and shall not be solely governed in its findings, conclusions and judgment by the testimony which may be adduced, but may give to it such weight as the commission may think it is entitled to receive.

4. When the operations of any such company shall extend beyond the limits of this state and into another state, then the commission shall assess, equalize and adjust only such proportion of the total value of all distributable property of such company as may be reasonably allocated to this state. To accomplish this end, the commission may require information in its form reports under section 137.1009 which is necessary to properly assess and allocate such property.

137.1015. 1. After original assessments, adjustments and equalization by the commission have been completed, each freight line company interested therein shall be promptly notified by the action of the commission and may apply for a review of the original assessment. The commission shall grant and hold such review and fix the date thereof. Such review may be by whatever procedures decided upon by the parties and may include, but not limited to, a formal or informal hearing, the presentation of affidavits and documentary evidence, and the presentation of legal arguments or briefs. All affidavits, documentary evidence and other factual evidence not presented at a formal hearing shall be duly sworn to and verified. In the event the parties cannot agree to the procedures to be followed, a formal hearing shall be held at which the freight line company seeking review shall have the burden of establishing the correct assessment, adjustment and equalization pursuant to section 138.420, RSMo. A record shall be kept of all matters submitted in review of an original assessment.

2. If, after such review and consideration of the facts, the commission is of the opinion that the original decision or any part thereof should be changed, the commission may change or modify the same.

3. Any freight line company aggrieved by the decision of the commission may, if it has participated in a review under this section, seek review as provided in chapter 536, RSMo.

137.1018. 1. The commission shall ascertain the statewide average rate of property taxes levied the preceding year, based upon the total assessed valuation of the railroad and street railway companies and the total property taxes levied upon the railroad and street railway companies. It shall determine total property taxes levied from reports prescribed by the commission from the railroad and street railway companies. Total taxes levied shall not include revenues from the surtax on subclass three real property.

2. The commission shall report its determination of average property tax rate for the preceding year, together with the taxable distributable assessed valuation of each freight line company for the current year to the director no later than October 1

of each year.

3. Taxes on property of such freight line companies shall be collected at the state level by the director on behalf of the counties and other local public taxing entities and shall be distributed in accordance with sections 137.1021 and 137.1024. The director shall tax such property based upon the distributable assessed valuation attributable to Missouri of each freight line company, using the average tax rate for the preceding year of the railroad and street railway companies certified by the commission. Such tax shall be due and payable on or before December thirty-first of the year levied and, if it becomes delinquent, shall be subject to a penalty equal to that specified in section 140.100, RSMo.

137.1021. 1. The taxes collected by the director under the provisions of sections 137.1000 to 137.1030, less one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund to be known as the "County Private Car Tax Trust Fund", which is hereby created. The fund shall be apportioned to the several counties in the state, based upon the ratio of the total main line track mileage of the railroad and street railway companies within each county to the aggregate total of the state. Prior to distribution of the car tax trust fund to the counties, six-tenths of one percent of the fund shall be transferred to the blind pension fund. The remaining money in this fund shall not be deemed to be state funds and shall not be commingled with any funds of the state.

2. The county upon receipt of the taxes under the provisions of sections 137.1000 to 137.1030 from the director shall apportion seventy percent of the revenues collected to the school districts within each county using the same basis of distribution as used in distributing receipts from the average school tax rate for that year, and the remaining thirty percent to the county general revenue fund.

137.1024. Whenever any freight line company fails to pay to the director the tax due within the time prescribed in section 137.1018, it shall be the duty of the director, as soon as practical thereafter, to make a statement in writing to the attorney general naming the freight line companies that have not paid such tax.

137.1027. 1. Upon receipt of the statement from the director of revenue as provided in section 137.1024, it shall be the duty of the attorney general to institute a suit or suits in any court of this state or of the United States having jurisdiction, in the name of the state, and at the relation and to the use of the director for the collection of said taxes, penalties and interest as the case may be.

2. The property of such freight line companies shall be subject to seizure under execution by the property officer in any county in this state, to satisfy a judgment rendered for such taxes, penalties and interest.

137.1030. In the event a final judgment of a court of competent jurisdiction shall

find that all or portions of this act is not enforceable, then without further action by the general assembly, the procedure for the assessing, adjusting and equalizing the distributable property of the freight line companies shall be the same procedure as provided in sections 137.975 to 137.985.

138.430. 1. Every owner of real property or tangible personal property shall have the right to appeal from the local boards of equalization to the state tax commission under rules prescribed by the state tax commission, within the time prescribed in this chapter or thirty days following the final action of the local board of equalization, whichever date later occurs, concerning all questions and disputes involving the assessment against such property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property. The commission shall investigate all such appeals and shall correct any assessment or valuation which is shown to be unlawful, unfair, improper, arbitrary or capricious. Any person aggrieved by the decision of the commission may seek review as provided in chapter 536, RSMo.

2. In order to investigate such appeals, the commission may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property. The commission may make its decision regarding the assessment or valuation of the property based solely upon its inquiry and any evidence presented by the parties to the commission, or based solely upon evidence presented by the parties to the commission.

3. Every owner of real property or tangible personal property shall have the right to appeal to the circuit court of the county in which the collector maintains his office, from the decision of the local board of equalization not later than thirty days after the final decision of the board of equalization concerning all questions and disputes involving the exclusion or exemption of such property from assessment or from the tax rolls pursuant to the Constitution of the United States or the constitution or laws of this state, or of the taxable situs of such property. The appeal shall be as a trial de novo in the manner prescribed for nonjury civil proceedings.

4. Upon the timely filing of an appeal as provided in this section, the state tax commission or the clerk of the circuit court, as applicable, shall send to the county collector to whom the taxes on the property involved would be due, a notice that an appeal has been filed, which notice shall contain the name and address of the taxpayer filing the appeal.

5. If the circuit court, after review of the appeal, finds that the appeal is not a proper subject for the appeal to the circuit court as provided in subsection 3 of this section, it shall transfer the appeal to the state tax commission for consideration.

6. If an assessor classifies real property under a classification that is contrary to or in conflict with a determination by the state tax commission or a court of competent jurisdiction of said property, the taxpayer shall be awarded costs of appeal

and reasonable attorney's fees on a challenge of the assessor's determination.

138.431. 1. To hear and decide appeals pursuant to section 138.430, the commission shall appoint one or more hearing officers. The hearing officers shall be subject to supervision by the commission. No person shall participate on behalf of the commission in any case in which [he] **such person** is an interested party.

2. The commission may assign such appeals as it deems fit to a hearing officer for disposition. The commission may, in its discretion, reserve such appeals as it deems fit to be heard and decided by the full commission, a quorum thereof, or any commissioner, subject to the provisions of section 138.240, and, in such case, the decision shall be final, subject to judicial review in the manner provided in subsection 4 of section 138.470.

3. The manner in which appeals shall be presented and the conduct of hearings shall be made in accordance with rules prescribed by the commission for determining the rights of the parties; **provided that, the commission, with the consent of all the parties, may refer an appeal to mediation. The commission shall promulgate regulations for mediation pursuant to this section. No regulation or portion of a regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.** There shall be no presumption that the assessor's valuation is correct. A full and complete record shall be kept of all proceedings. All testimony at any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

4. Unless an appeal is voluntarily dismissed, 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, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious. The commission may, prior to the decision being rendered, transfer to another hearing officer the proceedings on an appeal determination before a hearing officer. The complainant, respondent-assessor, or other party shall be duly notified of a hearing officer's decision and order, together with findings of fact and conclusions of law. Appeals from decisions of hearing officers shall be made pursuant to section 138.432.

5. All decisions issued [under] **pursuant to** this section or section 138.432 by the commission or any of its duly assigned hearing officers shall be issued no later than sixty days after the hearing on the matter to be decided is held or the date on which the last party involved in such matter files his **or her** brief, whichever event later occurs.

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