

(Legal Department)

Tulsa, Oklahoma. January 20th, 1919.

Honorable Board of County Commissioners,
Tulsa, Tulsa County, Oklahoma.

Gentlemen:--

Complying with your request of January 6th, for an opinion regarding taxes, beg leave to report as follows:

Section 7381, 1910 Statutes, as amended by Session Laws of 1915, Section 4, Chapter 107, page 142, Provides that all corporations, including banks and trust companies, organized, existing or doing business in the State, except Public Service corporations, shall be assessed upon the net value of their moneyed capital, that is, money actually invested in the business of such corporation, less the assessed valuation of any real estate located in this State owned by said corporation and listed separately in the name of said corporation..

Section 7331, Statutes of 1910, as amended by the Session Laws of 1915, Section 5, Chapter 107, page 145, provides the manner or mode of listing property of corporations.

Section 7366 to 7370, both inclusive, Statutes 1910, provide for Boards of Equalization and any one aggrieved by this assessment, may appear before the Board and may have his assessment corrected, equalized or adjusted, and if the party is not satisfied with the correction, equalization and adjustment, he may appeal to the County Board of Equalization, but said appeal must be taken within thirty days, and if the appeal is not taken within that time, the assessment stands. The above act was modified by the legislature of 1910-1911, page 334, Section 11, Session Laws 1910-1911, which abolished the township Boards of Equalization, and gave the county Board power to adjust assessments, but this act in no way excuses the tax payer from making the complaint if he feels aggrieved at his assessment. If the tax payer fails to make his complaint, or after making complaint, which is not sustained by the equalization Board, fails to take his appeal, the assessment must stand, and the Board of County Commissioners have no authority to change it.

Section 7353, Statute 1910, provides that the County Commissioners may correct assessment rolls or tax rolls or any double or erroneous assessments of property or taxation for any particular year.

Section 7354 Statute 1910, provides the manner of making corrections, which is as follows:--

"Whenever, at any of the regular meetings of the said Boards (in January, April, July or October), upon complaint of the person beneficially interested, his agent or attorney, it shall be made to appear by the testimony of the Claimant and at least one reputable witness, borne out by the records of the county, that the same property, whether real or personal, has been assessed more than once for the taxes of the same year, or that property, whether real or personal has been assessed in the county for taxes of a year to which the same was not subject, the Board is hereby empowered to issue to the complainant a certificate of error showing that the complaint has been investigated by the said Board and that the said Board has been satisfied of the truth of the allegations of the said complaint, and direct the same to the County Treasurer of their county, directing him to accept the said certificate as a payment of cash to the amount found by the said Board to have been unjustly assessed, which said amount shall be named in the said certificate, and shall by the Treasurer be credited upon his tax roll against the tax so found to be erroneous; and that the treasurer shall retain the said certificate and shall be credited with the same, as cash, in his settlement as such treasurer."

Session laws of 1916, Chapter 19, Section 1, page 22, also provides for a refund by the County Commissioners of taxes illegally assessed, which sections read as follows:--

"The Board of County Commissioners of each County is hereby authorized to hear and determine allegations of erroneous assessment, mistakes or errors made in the assigning or preparing of the tax rolls or in the description of land or other property, before the taxes have been paid, on application of any person or persons, who shall show by affidavit good cause for not having attended the meeting of the County Board of Equalization for the purpose of correcting such error, mistake or difference, and if upon such hearing it appears that any personal or real property has been assessed to any person, firm or corporation not owning or claiming to own the same, or any property exempt from taxation has been assessed, it shall be the duty of the Board of County Commissioners to correct such error, and the County Clerk upon the order of the said Board, shall issue a certificate of error to the County Treasurer, stating the amount of such correction, which amount the treasurer shall deduct from the original assessment of assessed amount; and if upon the hearing it appears that any such tax has been paid thru a mistake of fact, either of the party paying the same or any officer whose duty it is to assess or collect taxes, the Board of County Commissioners may refund the same, but no refund shall be made because of mistake of law."

Respectfully submitted,

(Signed) A. Nicodemus.
Assistant County Attorney.