

2088.

COUNTY AUDITOR—UNAUTHORIZED TO MAKE BLANKET CHANGE IN VALUATIONS OF ALL REALTY—REVALUATION IS TO BE TAKEN SEPARATELY WITH EACH PARCEL AFTER NOTICE TO PROPERTY OWNER.

SYLLABUS:

The action of the county auditor in making a revaluation or reassessment of real property in any subdivision of the county is to be taken separately with respect to each parcel of real property subject to such revaluation or reassessment, upon notice to the owners of the respective parcels of real property to be reassessed; and the county auditor is not authorized to make a blanket increase or decrease by percentage rate in the assessed valuation of all of the taxable real property in such subdivision without notice to the owners of the several parcels or tracts of real property affected by such action.

COLUMBUS, OHIO, July 14, 1930.

HON. JAMES M. AUNGST, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication which reads as follows:

“Some time ago I requested an opinion from you about the power of the Auditor to make a blanket reduction in the value of all the land in Stark County. You have answered that question for which I thank you.

Now, I desire to ask another question about the Auditor's power to reassess land between the regular six year general appraisal periods. It is this, can the Auditor reappraise all the land in each political subdivision and thus cause a general reappraisal between the six year appraisal periods, if it appears necessary to the Auditor?

For example, suppose our Auditor would send appraisers out to the political subdivision “A” next week, and said appraisers would determine that each piece of land in the political subdivision “A” was on the tax duplicate at a valuation of 10% in excess of its true value, could the Auditor upon giving notice to each land owner in said subdivision correct his duplicate, thus reducing the valuation on each piece of land in the subdivision by 10%? Next, if the Auditor has authority to cause a change in value in each piece of land in Subdivision “A,” then does it not follow, that he could continue this reappraisal process on each piece of land in each political subdivision in the whole county?

Now assuming that he, or his appraisers took each political subdivision separately and determined that each piece of land in each political subdivision is on the duplicate at a valuation 10% in excess of its true value in money, and corrected the duplicate for each political subdivision in the county, which would result in a blanket reduction of valuation of all the land in the county of 10%, would such a procedure be within the duties and power of the Auditor?

I am trying to find out the meaning of Section 5548-1, G. C. and how it applies.

I would like to know if there is any method by which the Auditor can cause a general reduction in value of all the land in the county, whether it be by political subdivisions, or in some other way, during the interval between the six year general appraisal periods as fixed by Section 5548 G. C.”

In Opinion No. 1870 of this office, directed to you under date of May 17, 1930, which is the opinion referred to in your communication, it was held that the county auditor has no power under the provisions of Section 5548-1, General Code, to make a blanket or horizontal increase or reduction on all taxable real property of the county after the same has been appraised by the county auditor in the manner and at the time provided for by Section 5548, General Code. In the former opinion of this office, above referred to, it was further said that Section 5548-1, General Code, expends its force in authorizing the county auditor, on notice to the owner of any parcel of real property, to reassess the same if said county auditor finds that the value of such property has changed or that the property for any other reason is not on the duplicate at its true value in money, and providing for a review of said reassessment in the manner therein specified.

The considerations in said opinion which led to the conclusion that under the provisions of Section 5548-1, General Code, the county auditor is not authorized to make a horizontal increase or decrease by percentage rate on all of the taxable real property in the county, likewise led to the determination that the county auditor has no authority under said section of the general code to make a horizontal increase or decrease in the taxable value of all of the real property in any particular subdivision of the county.

Under the provisions of Section 5548-1, the county auditor, when the conditions mentioned in said section appear, may reassess any particular parcel of real property appearing by entry upon the tax duplicate of the county, upon giving notice to the owner of such property and thereby affording him a chance to be heard in the matter. Such reassessment may result in an increase or a decrease in the assessed valuation of such property as the facts and conditions in a particular case may require. In this connection it may be observed that independent of statutory provisions with respect to notice in such cases, many well considered cases support the rule that before the assessed valuation of the property of a taxpayer can be legally raised, some form of notice to the taxpayer is required by the fundamental law, if such order is final and no provision is made for a review of such order. In most of the states of the union, including the State of Ohio, the statutory law provides for the giving of notice to the property owner before an increase is made in the taxable valuation of his property by the officer or board having jurisdiction in such matter, and in such case the giving of the notice required by statute, unless the same is waived by the taxpayer, is mandatory, so that an increase in the valuation of said property made without notice is illegal.

Under the provisions of Section 5548-1, General Code, the property owner is entitled to notice of the reassessment of his property, whether such reassessment results in an increase or a decrease in the assessed valuation of such property.

Conceivably, conditions may exist in a particular subdivision of the county which affect the value of each and every parcel of taxable real property in such subdivision, calling for an increase or decrease in the assessed valuation of such property in the subdivision and each part and parcel thereof. In such case the county auditor is, of course, authorized to reassess all of the taxable property in such subdivision. In this situation, however, the action of the county auditor is to be taken with respect to each and every parcel of real property indicated by the several entries on the tax duplicate, and is to be taken only upon notice to the owner of each parcel of real property affected by such action of the county auditor; which action is subject to review by the county board of revision and by the Tax Commission of Ohio, as provided for by the section of the general code above noted.

Respectfully,
GILBERT BETTMAN,
Attorney General.