TOPEKA, KANSAS

March 1, 1942

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SUGGESTIONS
TO
COUNTY ASSESSORS
RELATIVE TO ASSESSMENT
OF PROPERTY
1942

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STATE COMMISSION OF REVENUE AND TAXATION

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To the County Assessors:

The local assessor is the most important official in the administration and application of the ad valorem tax and his functions or duties exceed in importance those of any other official, or group of officials. This is true because the work of the assessor is primary and the work of others is either doing that which the assessor has failed to do or perfecting that which he has initiated. If equality is not obtained among the taxpayers in the assessment of property in the first instance by the deputy assessors, it will thereafter be impossible to more than approximate equality as Boards of Equalization have only a brief time within which to perform their work.

This year, in order to finance our war efforts in the present National emergency, all taxpayers will be called upon to pay additional Federal taxes. Because of this increased tax burden and the unsettled conditions that accompany this emergency, you are faced with a serious responsibility. You must make every effort to get all taxable property on the tax rolls to bear its full share of the tax burden. Likewise, it is your duty to see that no class of property bears more than its full share of the tax burden.

This being the year in which real estate is assessed, you have an added responsibility. This task is all the more important because the values fixed by you, with few exceptions, will remain the same for four years. Arriving at the proper valuation will be difficult in many cases because of the changed business conditions resulting from the present National emergency. The location of defense industries will create in many localities of our State problems in arriving at the value of property also, in determining the exempt status of both real and personal property. However, if you will review the various Kansas statutes relating to assessments, the correction of irregularities and equalization and apply your best judgment, you should have little trouble in arriving at a proper decision.

You are assured the fullest cooperation on the part of the State Commission of Revenue and Taxation in the solution of any serious problems confronting you.

Section 79-501, General Statutes of 1935, reads in part as follows:

> "Each parcel of real property shall be valued at its true value in money, the value thereof to be determined by the assessor from actual view and inspection of the property; but the price at which such real property would sell at auction or forced sale shall not be taken as the criterion of such true value. Personal property shall be valued at the usual selling price in money at the place where the same may be held; but if there be no selling price known to the person required to fix the value thereon, it shall be valued at such price as is believed could be obtained therefor in money at such time and place."

It is desired to point out that aside from the fact that the statute demands a full value assessment and imposes severe penalties upon assessors for ignoring this requirement, the prime requisite of a good and equitable assessment is a true or full value assessment. No assessor is competent of making an equitable assessment on a percentage basis. Such an assessment not only confuses the assessor but makes it impossible for taxpayers to determine whether he has made an equitable assessment or not.

True value in money --cash value--actual value

There should be no confusion in rega rd to the terms "True value in money " "cash value" and "Actual value" because the courts have many times declared that these terms all mean the same thing. There is nothing uncertain about the meaning of true value in money, actual cash value, the terms used in our Kansas statute.

It is not necessarily what has originally been paid for the property or what it would cost to produce it, or what it would sell for in some other locality, or at a forced or auction slae, or in the aggregate with other properties in the community. It is not, necessarily, to be determined from the income it produces or the pleasure it gives to the owner, or the price he may demand for it. It is the usual customary selling price at private sales under normal conditions when a

ready and willing seller deals with a ready, willing and able buyer in the community where the property is located at the time of assessment.

As stated, the best evidence of land value is what it will sell for under normal conditions, but even using this factor as a measuring stick, the assessor is up against the proposition that only a small percentage of the land in any county is sold during a given year. As a matter of fact it will be found that only a small percentage is sold even if a number of years is taken as the period under consideration. It will, therefore, be necessary for the assessor to determine the factors which add to or detract from land values in order that a value may be set where there are no transfers that may be used as a guide.

Building and improvements

Building and improvements are valuable only when they are suitable to the location and to the best use of the property on which they stand. Much money may be put into buildings and improvements which add nothing to the selling value of the farm or parcel. The assessor is concerned only with the actual selling value of the farm or parcel as a whole. The way to determine the value of the buildings and improvements is to determine the selling value of the farm or parcel with the buildings and improvements standing on it, and the amount by which such total exceeds the value of the land will be the value of the improvements.

The assessor should, then, after he has ascertained the value of the land, ascertain the selling value of the farm as a whole and enter that sum as the total value of the land and improvements.

If an attempt is made to appraise the buildings and improvements separately, it may result in one of two things; (a) the total valuation will be unduly increased by giving too much value to the improvements, or (b) the value of the land will be reduced in order that the total may not be raised above a fair assessment. In this way the active, industrious and progressive owner who keeps his buildings and improvements in repair, or who provides all necessary and desirable improvements may be assessed too high as against his neighbor who allows his farm to fall into neglect or decay. The land of the two farms may be equal in value; and if so, should appear at the same figure on the tax roll.

Scales on farms

If scales on a farm are attached to the ground by mason work, or by any other substantial method, and are owned by the owner of the farm, they are to be assessed as improvements forming a part of the real estate.

If scales are owned by a tenant with the privilege of removal, even if firmly attached to the ground, they are to be assessed as personal property to the tenant.

Scales located in the street or other public highway are to be assessed as personal property.

Machinery used in a manufacturing plant

The Commission has always found it to be difficult to distinguish clearly between machinery or other fixtures as to their being real or personal property, the conditions surrounding the property being the sole guide in such determination. The Supreme Court of Kansas has used the following language in discussing the question:

> "When a structure is a fixture or not depends on the nature and character of the act by which it is put in place, and the purpose for which it is intended to be used." (A. T. & S. F. Ry. Co., v. Morgan, 42 K. 23)

And again:

> "One of the tests of whether personal property retains its character or becomes a fixture is the use to which it is put. If it is placed on the realty to improve it and make it more valuable, it is some evidence that it is a fixture; but if it is placed and for use that does not embrace the value of the realty, this is some evidence that it is personal property." (Same case.)

The opinion of the Commission has always been that machinery placed in the building which is to be used in the carrying on of the manufacturing business for which the building was erected, is to be considered as realty whether permanently

affixed or remaining in place merely by weight, and that it continues to be realty until the use for which the whole structure was planned, ceases and the machinery is separated--in which case it is to be considered as personal property.

Improvements destroyed by fire, flood, or wind after March 1

There is no law which authorizes an abatement of the tax because of the destruction of property. Property is assessed as of March 1, and there is no provision anywhere for allowing claim covering such property if destroyed by fire, flood or wind.

The law does provide, however, (Section 79-403, G. S. 1935) that such improvements, if more than $300.00, if destroyed after March 1, shall be deducted from the assessment of the succeeding year and this is the only remedy given for such losses.

You can easily see how impossible it would be to grant abatements for all kinds of losses of property which occur after March 1. Cattle, horses and other animals may die and yet there is no abatement of the tax and cannot be. Neither the board of county commissioners or the Commission of Revenue and Taxation has authority whatever to cancel taxes of this character. After the values have been made up and gone into the aggregate which forms the basis for the tax levies and especially after the taxes have been extended, there can be no change except for reasons given in the statute and any loss of the kind mentioned is not provided for.

Delco light plant--assessment of

As has been before stated under the heading "Machinery used in a manufacturing plant", the Supreme Court has ruled that one of the tests of whether personal property retains its connection or becomes a fixture is the use to which it is put.

The Commission has ruled in some cases that such a plant is personal property and again that it should be assessed as improvements on real estate. If upon investigation the deputy assessor believes that such property is not personal property but is a fixture to be assessed as real estate, he should make some notation on the field book on which he makes his valuation notes.

Improvements added to real estate

Real estate improvements under process of construction are to be valued for assessment purposes, but the real estate and improvement value of course are to be kept separate as has been the practice for some years. It is not necessary that a building or other structure be completed in order to render it liable for assessment. If the improvement is of such a character as makes it a part of the real estate, then it is to be assessed at its value as of March 1--that is--probably at its cost at that time as that would be about the value added to the real estate by the improvement. It would seem that the value on that day would be best ascertainable by taking the cost of material used in the erection; together with the cost of labor. If this data can be ascertained, it would approximate, as nearly as possible, the actual value as of March 1.

However, the rule is somewhat different in adding improvements in the years intervening between the assessments. As to those improvements the statute provides, R. S. 79-403, that none shall be valued unless they will add to the value of the land at least $300. If there is an increase in the land value of less than $300 by reason of the improvement, the improvement is not to be taken account of by the assessor in picking up improvements in the intervening years between the regular assessments.

Assessment rolls--where wrong description and wrong acreage are reported

Under the United States system of survey the description property comprises the legal subdivisions of a section and certain towns and ranges. For instance, the N. E. $\frac{1}{4}$ of Section 6, Township 20, Range 4, Marion County, Kansas, is a complete legal description of that tract and any fractional part thereof, such as the S. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ or the S. $\frac{1}{2}$ of the S.E. $\frac{1}{4}$ would be complete legal description. The acreage is appended merely as an incident to the particular legal subdivision. The N. E. $\frac{1}{4}$ of any section is a proper description, although it may contain more or less than 160 acres, and usually in deeds, after the legal description, there is the indefinite qualifying phrase giving the acreage "more or less."

The Commission has always looked upon the proposition as one where the tract as a whole is being assessed, and in most

instances it will be found upon investigation, it is believed, that tracts of varying acreages are given the same value by the assessor. He looks at the tract as a whole and not at the acreage.

It may be he considers the acreage and the price per acre tentatively in determining the value for the whole tract, but after all it is the tract that is being valued, and the commission has never consented to reduce a valuation because the acreage was less or more than what appeared upon the tax roll.

For years tax receipts have given the acreage of respective tracts and errors of this kind have been under the observation of the owner of the tract all these years, so that if corrections upon the tax rolls are desired the owner had the privilege of appearing and having the corrections made. It is not to be expected that the county clerk shall proceed to determine the exact acreage in every tract of real estate in his county. It would require a survey of every tract in the state in order to uniformly put upon the assessment rolls of the state the exact acreage. Except on the correction lines where the acreages of tracts are more or less than the normal 40, 80 or less than the legal subdivisions, it is considered that the acreages are fairly represented by the acreage of the subdivision according to the system of survey devised by the Federal Government.

Exceptions may occur with respect to lands along a stream where a change in the channel not infrequently carries away perhaps nearly all of the quarter section, but in such a case there is only a fraction of a quarter section left which would be described as such fraction, if necessary, for a perfect description of metes and bounds.

TAXATION OF GRAIN DEALERS AND PRODUCERS

The 1941 Legislature passed an act (L. 1941, Ch. 387; G. S. 1941 Supp. 79-3901 to 79-3910) relating to the taxation of grain dealers and producers. Since so many inquiries have come to the Commission concerning the operation and effect of this act, it will first be discussed in detail and then some examples will be stated to further show its application and effect

Nature of the Tax Imposed

The tax imposed by this act is an occupation or license tax in the nature of an excise, but is not an ad valorem or

property tax. Its purpose is to levy a taxfor the privilege of engaging in business as a "dealer" in grain and for the privilege of being a "producer" of grain.

Definition of Terms

The Act defines the following words and terms used therein as follows:

"Grain" shall include, soybeans, corn-peas, wheat, corn, oats, barley, kaffir, rye, flax and all other grains, but shall not include said grain after it has been milled or processed.

"Person" shall mean every natural person, firm, association or corporation.

"Dealer" shall include every person who shall operate any grain elevator, mill or warehouse. The term "dealer" shall also include every "scooper dealer" and every person engaged in the business of transporting grain by truck, trailer, semitrailer or any motor vehicle and who, as a part of, or in connection with, such business of transporting grain, purchases grain for the purpose of resale or retransfer of title. Commission merchants and brokers when they do not physically handle the grain are not within the term "dealer".

"Producer" shall mean any person who grows grain which is thereafter harvested.

"Dealer establishment" shall mean any location, or premise, at which grain is received by or loaded for delivery to a dealer.

"Received" shall mean any grain handled or stored by any dealer in the state of Kansas, and shall include grain transferred from one elevator to another or from an elevator to a mill whether or not there be a change of ownership of said grain, except when such transfer is on the same location or premises.

"Harvested" when used in this act shall mean, when applied to corn, snapped, husked, either shelled or unshelled, and in case of all other grains, threshed, and the term "harvesting" when applied to corn shall mean the snapping, husking and/or shelling, and in the case of all other grains, threshing.

Tax Imposed

For the privilege of engaging in the business of a dealer in grain, a dealer is required to pay a tax of one half (1/2) mill

per bushel, upon all grain received by him during the preceding calendar year, whether such grain is owned by him or not. The tax shall be paid in the county in which the dealer establishment is located.

For the privilege of harvesting grain a producer is required to pay a tax of one half (1/2) mill per bushel upon all grain harvested by him. The tax shall be paid in the county in which the land that produced the grain is located. If the grain is produced by a share cropper, the landlord and the tenant shall each pay his proportionate share of the tax, but if the land is rented on a cash basis, the tenant shall pay the full tax.

Registration of Dealers

Every dealer before commencing operation in any locality is required to register as a dealer in grain with the county clerk of the county in which he proposes to do business.

The act contemplates that the registration shall be permanent and a dealer once registered is not required to re-register unless he should change the location of his dealer establishment. If a change in ownership should occur in any dealer establishment, the new owner thereof, must register with the county clerk, even though the previous owner was registered.

County assessors should furnish each deputy assessor a list of the dealers registered in the deputy assessors district. Deputy assessors should be instructed to notify the county assessor of the names of any dealers located in his assessment district whose names are not shown on the list furnished to him.

Returns to Deputy Assessors

While the tax imposed by the act is not a property tax, it requires every dealer and every producer at the time, place, and manner provided for making a return to the deputy assessor of personal property for taxation, to furnish to such deputy assessor a true statement in bushels of all grain handled or harvested by him during the preceding calendar year.

The Commission has prepared form No. 41B on which dealers are required to make their returns and form No. 41A on which producers are required to make their returns. It is essential that all the information required by these forms be placed thereon when the return is made, since the information required to be shown thereon is absolutely necessary, in order that the county

treasurer may make a proper distribution to the various tax levying units of the tax collected. In order to make a proper distribution of the tax collected the county treasurer must know the amount of bushels of grain which has been harvested from land located in a particular taxing district. Accordingly, form 41A to be used by producers and landlords in making returns of grain harvested is arranged so that where grain is harvested from land which is located in more than one township, school district, high-school district, drainage district, or cemetery district separate entries may and should be made thereon to show the amount of grain harvested from land located in each particular township, school district, high-school district, drainage district and cemetery district. For example, if a farmer harvests grain from a quarter section of land, 80 acres of which is located in drainage district No. 1 and 80 acres of which is not located in any drainage district and the entire 160 acres is located in the same township, school district, high-school district and cemetery district, two entries of the grain produced should be made on the form, one showing the amount harvested from land located in the drainage district and the other showing the amount harvested from the land located outside the drainage district. If the land on which the grain harvested is produced is rented on a share basis by the tenant, the landlord and tenant should show the percent of the crop to which they are entitled in the column of the form having the heading "My %".

If a dealer operates more than one dealer establishment in the county a separate return should be made by him on form 41B for each dealer establishment.

This act did not take effect until March 24, 1941 and therefore, the returns by dealers and producers made as of March 1, 1942 should show only the bushels of grain handled or harvested by them on and after March 24, 1941, and down to and including December 31, 1941. In subsequent years the returns shall be made for the entire preceding calendar year.

Computation of Tax by County Clerk

The county clerk is required to compute the tax imposed by the act on the dealers and producers from the returns made to the local assessors on the forms prescribed by the Commission. After the county clerk has computed the tax he shall include the amount thereof on the personal property list with the personal property tax levied against them.

Tax Exemption

The two hundred dollar personal property tax exemption prescribed by the constitution and the statutes of this state does not apply to the tax imposed by this act which is an occupation or privilege tax. That exemption applies only to ad valorem taxes.

All grain, whether or not retained in the hands of the producer is exempt from the ad valorem or property tax. All grain warehouse receipts are exempt from all ad valorem or property tax.

Flour or meal which has been milled from grain or any commodity which is made by the processing of grain is subject to ad valorem taxation but is not subject to the occupation or license tax imposed by this act.

EXAMPLES

The following are examples of questions which have arisen concerning the operation and effect of this act and the answers of the Commission thereto:

(1) "A", a farmer, buys grain to feed his livestock from "B" who is also a farmer and who is not a dealer. Do A or B have to pay any tax on this transaction?

Ans: No. If B produced the grain he would pay the production tax but since neither A nor B operate a grain elevator, mill or warehouse and are not scooper dealers and are not engaged in the business of transporting grain and in connection therewith purchasing grain for the purpose of resale, this transaction would not be subject to the tax.

(2) "A", a corporation receives grain at its elevator at Concordia, Kansas, and then ships the grain so received to another one of its elevators or warehouses at Atchison, Kansas. Are both of these transactions subject to the tax?

Ans: Yes. The fact that there has been no change in ownership makes no difference since the grain has been received at two different dealer establishments and the corporation is required to make a return of the first transaction to the deputy assessor in Concordia and of the second to the deputy assessor in Atchison.

(3) A farmer has on hand grain which he harvested prior to March 24, 1941. Is this grain subject to ad valorem taxation?

Ans: No. All grain is exempted from ad valorem taxation regardless of when harvested. However, when this grain is delivered to a dealer it is subject to the occupation tax imposed by this act.

(4) A farmer delivers his own grain to a dealer to be ground into feed and returned in that form to the farmer. Must the dealer pay the tax on this transaction?

Ans: Yes. He has received the grain at his establishment and the fact that he is not the owner thereof does not exempt him from the tax. If the farmer has this processed grain on hand on March 1st, it is subject to ad valorem taxation in the same manner as the dealer in Example 5.

(5) A dealer who operates a mill receives wheat which he mills into flour. Is this transaction subject to the tax?

Ans: Yes. The receipt of the wheat at the mill is a taxable transaction but after the wheat is milled the flour becomes subject to ad valorem taxation.

EXEMPTION - - FAMILY

Inquiries come to the Tax Commission from time to time as to what constitutes a family which is entitled to the $200.00 exemption provided by our constitution and statutes. We are, therefore, setting out below, as nearly as we can, a general statement covering this matter. The statute which applies is as follows:

> "Personal property to the amount of $200.00 shall be exempt to each family, provided that when a family has once become entitled to this exemption, the right thereto exists so long as any member of the original family survives and maintains a home."

What might be said to be the most clearly defined family consists of the parents, their children and servants.

On the other hand, every collective body of persons living together, subsisting in common and directing their attention to a common objective -- the promotion of their mutual interests and social happiness, constitutes a family.

However, it has been held that a collection of individuals occupying a house but in no manner and in no wise connected with each other does not constitute a family.

The matter of what does constitute a family depends somewhat on the purpose and intent of the group of individuals living together. If it is not their purpose and intention to live together as a family for other purposes, then they cannot be held to constitute a family for tax exemption purposes.

You will note that after a family has once been established and become entitled to the exemption, the right to that exemption exists as long as any member of the original family survives and maintains a home. The exemption is to the family and so long as there is a survivor of the family, the exemption is to be allowed. Families are gradually dissolved. If the father and mother be both dead and before their death some of the children have left the family home and set up families of their own, they are not thereafter to be considered as a part of the original family. On the other hand, any of the children are entitled to the exemption who are living under conditions and circumstances which would indicate that in all fairness they should be considered as part of the original family.

In regard to perplexing questions that may arise, it should be remembered that these questions should be settled upon lines of common sense and good judgment but that no person is entitled to an exemption from taxation unless he can clearly show that he is entitled to such exemption.

FORM #2 - PERSONAL PROPERTY STATEMENT

The personal property statement, Form #2, provides for valuations covering over one hundred schedules. The Commission cannot enter into details covering each schedule and its subdivisions, but in a general way will discuss some of the more important schedules.

Schedules 1, 2, 3, 4 and 5, covering the assessment of horses, mules and asses, cattle, sheep and hogs, will be discussed together.

(a) The basis for the assessment of horses and mules differs somewhat from that of other livestock. This class of property is used entirely for performing work on the farm and elsewhere. As a result the market price for each animal varies greatly. Prices may be obtained from transfers in the community, auction sales, and from dealers. The deputy assessor must of course use his discretion

in placing valuations against this particular class of livestock by taking into consideration the grade and weight, and soundness of the animals involved.

(b) Cattle are bought and sold daily. The prices of beef cattle can be obtained from newspapers, bulletins, stock dealers and announcements over the radio. The prices of dairy cows will also be quoted. However, the prices of all such farm animals vary somewhat in the different localities and according to the type or grade, the pure bred, high grade or common or scrub stock, all have their prices in the market. Pedigreed stock is worth more than common stock but the degree of excess value must be determined by the deputy assessor, who should consider all facts and conditions.

The current sales of all such stock in the immediate community, and the prices paid by the dealers, will be helpful as indicating market prices. Auction sales might be considered as fairly accurate. However, at these sales where credit is given, the prices are sometimes inflated.

(c) Sheep and swine are bought and sold regularly on the market and the prices quoted on the first day of March can be readily obtained as in the case of cattle.

FORM #2-A - PERSONAL PROPERTY STATEMENT- CORPORATIONS

What has been said concerning Form #2 applies almost wholly to Form #2-a. The two forms differ as regards exemptions in that corporations are not entitled to exemption. This form is to be used in listing the property of corporations, in general, that is, those corporations for which special blanks have not been provided for their use, such as banks, building and loan associations, life insurance companies, oil and gas companies, etc.

The accounting officer of the company is required to list all the assets the corporation owns, or has under its control which are provided for in the classification of property on the second page of the form. Care should be taken by such officer to see that the financial data on page 1, of the form is inserted. Insofar as the information requested on Page 4, of the form is concerned, the returning officer has nothing to do, as it relates to the shares of stock.

Particular attention is called to Schedules 13, 14 and 15, which like the same numbers on Form #2, are not to be used at all by general corporations. This form is printed on tinted paper so

as to make it readily distinguishable from Form #2, which is on white paper and from other forms on other shades of tinted paper.

The basis of the assessment of general corporations is the value of shares of stock on March 1st, of the current tax year. All shares are to be assessed at their actual market or cash value, as of that date. From the aggregate thus determined, deductions are to be made as listed on Page 4, of the form. The remainder, after these deductions have been made, is to be carried by the assessing officer to Schedule #35 on page 3 of the form.

The returning officer of the corporation must answer and sign the interrogatories shown on Page 4 of the form and in proper manner must take the oath prescribed for verification of the return.

FORM #2-AA - MERCHANTS AND MANUFACTURERS

This form is to be used in the assessment of individuals, corporations or partnerships engaged in the business of merchandising or manufacturing and is to be used solely for the listing of property used in connection with either of the two kinds of business. The property of any person engaged in the management of the business which is owned by him individually and is not connected with the business is always to be listed on Form #2. In other words, the manager of the business of a merchant or manufacturer should always render to the assessor two statements, one for his individual property not connected with the business and one on which is listed solely the property involved in the transaction of the business.

If the business is conducted by a corporation, then the first proposition is to determine the value of the shares of stock issued by the corporation. The shares are taxable as property in the hands of the shareholder, but the shareholder is reached through the return made by the corporation of the value of the shares and the corporation pays the tax and the shareholder is not molested, unless the corporation fails to pay, in which case the shareholder is personally responsible and warrants may be issued against him for the tax.

What is said in this particular, is applicable also to general corporations referred to under Form #2-A.

FORM #2 B - MERCHANTS STOCK STATEMENT

This form is prepared simply for the purpose of collecting information to enable the assessor to determine for himself the value which should be fixed as of the first of March, upon the stock of merchandise in his jurisdiction. It is not the assessment blank

and is not binding at all upon the assessor. It is merely the furnishing under oath by the owner of the property of data regarding the same which may or may not be used by the deputy assessor in arriving at the value accordingly as he determines from the information thus furnished and information acquired from other sources what the value should be.

The law requires that a merchant shall be assessed on the goods on hand on March 1st, but the value on hand is the value of the average quantity on hand for the year preceding the first of March. Hence, it becomes necessary for the merchant to keep his account so that he may show what was the value of the amount on hand for each month during the year or during the time which he conducted his business. When these monthly averages are added, they are to be divided by the number of months during which the business was conducted and the average thus obtained is to measure the quantity on hand for assessment purposes as of March 1st.

If a merchant keeps his accounts in such a manner as to show the deputy assessor the amount on hand for each month of the year, no trouble will be experienced. If he does not do this, then the assessor must resort to the best information he can get, and the answer to the first seventeen questions on the first page of Form #2-B will indicate the real value of the merchandise stock, but this is not conclusive.

After all is said, the whole proposition is dependent upon the exercise of the judgment of the deputy assessor and the deputy assessor who is assigned to assess this class of property should have knowledge of merchandise stock of goods and when assessing a merchant, should make careful inquiry into all facts and circumstances connected with the business.

FORM #2-BB - MANUFACTURER'S STATEMENT OF RAW MATERIAL AND FINISHED PRODUCTS

This blank serves the same purpose to manufacturers as #2-B does for the business of merchandising, and the remarks concerning #2-B are applicable to #2-BB.

TAX COMMISSION FORM #2-H

FILLING STATIONS AND FILLING STATION EQUIPMENT

The Tax Commission is advised that there are between ten and twelve thousand filling and service stations in the State of Kansas. There has been some confusion existing among the assessing officers in the various counties of the State as to the method of assessment of this particular class of property, and in order to secure uniformity in the listing of it for assessment purposes, this blank has been provided on which to make the returns of this property.

Where Station is Located on Owner's Property

The Form 2-H is to be used in conjunction with Forms 2-aa and 2-B. Should the filling station and its equipment be located on property of the owner of said filling station, only such property which in its nature is personal property and not assessed as real estate should be listed on the Form 2-H, since the filling station structure and other immovables form a part of the real estate and are assessed as such.

Where Station is Located on Leased Ground Merchandising only Oil and Gas

The form 2-H is to be used in assessing merchants, the sale and distribution of oil and gas constituting all of their business. In the assessing of these kinds of merchants you will find there are a number of items on the Form 2-H, which are not listed on Form 2-aa or 2-B. The Commission, therefore, requests that those items not listed upon Form 2-aa and 2-B, but which are listed on Form 2-H be filled out, and the totals thereof on Form 2-H transferred to the correct schedules on Form 2-aa.

As an example, take the Standard Oil Company which operates approximately in one hundred stations in a given county. The county assessor should see that each of his deputies is supplied with a sufficient supply of forms 2-H to cover each and every filling station within his taxing district.

Since the property is located on leased ground, the deputy assessor is to list each station and its equipment in full on Form 2-H, transferring the total thereon to the correct schedules on Form 2-aa. When this is done to transmit all the forms 2-H, 2-aa and 2-B, to the county assessor; in this way that particular district will derive its proportionate share of assessment on all filling stations and equipment located therein.

It will be easily seen that if the company should make its return direct to the county assessor, the taxes on all its property would be paid in a lump sum and would not be distributed to the taxing districts which were entitled to it.

Merchandising Oil and Gas and Other Commodities

In the case of a merchant who deals in other commodities besides gasoline and oil, whose property is located on leased ground, the deputy assessor should use Form 2-H in conjunction with Form 2-aa and 2-B, but the detailed listing of items appearing on Form 2-H may be minimized to the extent that only such items as do not appear on Form 2-aa and 2-B should be filled in on the Form 2-H. In other words, this class of merchant may include in his average stock of merchandise all of his business including his filling station business; however, the deputy assessor should not overlook filling in the various items on Form 2-H, which are not included in Forms 2-aa and 2-B.

SHARES OF STOCK, FOREIGN CORPORATIONS, TAXED AT INTANGIBLE RATE - SUPREME COURT DECISION

The Legislature, in 1939 amended Section 79-3108 of the General Statutes of 1935 by providing for the classification of stock as an intangible by stating:

> "The term 'notes and other evidences of debt' shall include and mean certificates evidencing shares of stock otherwise taxable to the owner or holder . . . . . "

The Supreme Court, in the case of Hunt vs. Eddy, 150 Kansas 1, upheld the validity of this amendment in an action brought to require the county assessor of Shawnee County to tax shares of stock in a certain foreign corporation according to the intangible rate.

Considering the above amendment and the case cited, it is quite apparent that shares of stock, otherwise taxable to the owner or holder, have been classified as intangibles and are subject to taxation at the intangible rate.