

STATE OF TENNESSEE
OFFICE OF THE
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Opinion No. 05-092

Lack of County Authority to Assess and Audit Properties of Centrally-Assessed Taxpayers

QUESTIONS

1. May a county contract with a private business to audit businesses for property taxes which are assessed by the Comptroller of the Treasury under Tenn. Code Ann. § 67-5-1301?
2. May a county assess for property taxes the businesses listed in Tenn. Code Ann. § 67-5-1301?
3. Does Tenn. Code Ann. § 67-5-303 or any other section of the Tennessee Code or the Tennessee Constitution allow county tax assessors or their designees to audit the types of businesses listed in Tenn. Code Ann. § 67-5-1301?

OPINIONS

1. No. A county is not authorized to contract with a private business to audit for property tax purposes taxpayers that are centrally-assessed by the Comptroller pursuant to Tenn. Code Ann. § 67-5-1301.
2. No. A county is not authorized to assess for property tax purposes taxpayers that are centrally-assessed by the Comptroller. Pursuant to Tenn. Code Ann. §§ 67-5-1301, *et seq.*, the Comptroller, and not the local assessor, has been given the authority to assess centrally-assessed properties.
3. No statutory authority exists for county tax assessors to audit centrally-assessed taxpayers for property tax purposes. A county tax assessor's authority to obtain information concerning taxable property under Tenn. Code Ann. § 67-5-303 applies only to information relating to the assessment of property within the assessor's jurisdiction. Inasmuch as the county tax assessor has no involvement in the assessment of centrally-assessed properties, Tenn. Code Ann. § 67-5-303 does not authorize the assessor to audit these taxpayers.

ANALYSIS

Pursuant to Tenn. Code Ann. § 67-5-1301(a), the Comptroller of the Treasury “is authorized and directed to assess for taxation . . . all of the properties of every description, tangible and intangible, within the state, owned by” the public utility and common carrier companies listed in the statute. The Comptroller assesses the properties of these companies for “state, **county, and municipal** purposes.” Tenn. Code Ann. § 67-5-1301(a) (2003) (emphasis added). With regard to centrally-assessed properties, therefore, it is the Comptroller, and not the local assessors, who make assessments of property. *See, e.g., In re All Assessments*, 67 S.W.3d 805, 808 (Tenn. Ct. App. 2001) (observing that, whereas “[m]ost commercial, industrial, and residential property is valued and assessed locally by county assessors,” public utility and common carrier property “is centrally assessed annually by the comptroller of the treasury”).

To assist the Comptroller in the performance of his assessment duties, a centrally-assessed taxpayer is required to file an annual schedule with the Comptroller which provides certain information about the taxpayer’s organization, operations, and properties. *See* Tenn. Code Ann. § 67-5-1303 (2003). The Comptroller is authorized to require “such additional information and take such additional evidence as to the value of any property to be assessed by it as may be deemed proper.” Tenn. Code Ann. § 67-5-1319(a) (2003). Moreover, the Comptroller has been given the specific statutory authority to examine the books of a centrally-assessed taxpayer, *i.e.* to conduct an audit of the taxpayer, in order “to arrive at the correct value of such property.” Tenn. Code Ann. § 67-5-1320 (2003).

Upon examining the schedules and other information provided by centrally-assessed taxpayers, the Comptroller is required to “proceed to ascertain and determine the value of such property within the state for taxation in accordance with the unit rule of appraisal where applicable, as determined by the [Comptroller], taking into consideration” certain statutory factors. Tenn. Code Ann. § 67-5-1322(a) (2003). The Comptroller determines the values of centrally-assessed properties in Tennessee, and he allocates those values to the various counties, municipalities, and other taxing districts for taxation purposes. *See* Tenn. Code Ann. § 67-5-1325(b)(1) (2003). The Comptroller is required to “certify to the trustee and county assessor of property of each county in which any of such property lies, the amount to be taxed in such counties, respectively, for county purposes.” Tenn. Code Ann. § 67-5-1331(a) (2003). The taxes due each county are “collected as any other county . . . taxes may be collected by law and at the rate fixed by such county.” Tenn. Code Ann. § 67-5-1334 (2003).

As the foregoing statutory scheme demonstrates, although the county collects the taxes due from centrally-assessed taxpayers within the county, the county has no role in the valuation or assessment of centrally-assessed properties. *See also* Tenn. Code Ann. § 67-5-502(a)(1) (2003) (providing that “[t]he function of assessment shall be to assess . . . “[a]ll property, except such property as shall be assessed by the comptroller of the treasury”). Instead, the Comptroller is required to value and assess centrally-assessed properties and, ultimately, to allocate the portion of centrally-assessed properties that may be taxed by each county.

The Comptroller is authorized by statute to conduct audits of centrally-assessed taxpayers, *see* Tenn. Code Ann. § 67-5-1320 (2003), but no statutory authority exists for county assessors to conduct such audits. Pursuant to Tenn. Code Ann. § 67-5-303, county assessors have the authority to obtain evidence concerning taxable property within their respective jurisdictions; however, this authority is limited to information that relates “to the assessment of property.” Inasmuch as county assessors have no responsibility for, or involvement in, the assessment of centrally-assessed properties, any authority conferred upon the county assessors pursuant to this statute does not extend to the audit of centrally-assessed taxpayers. The counties and the county assessors have no authority to conduct audits of centrally-assessed taxpayers for property tax purposes, and they likewise have no authority to hire private contractors to do so.

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