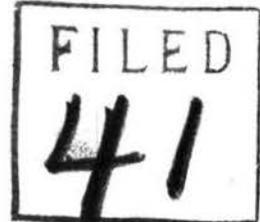


**TAXATION:** Town and village delinquent real estate taxes are to be collected by County Collector. He must accept list certified to him even though late and must sell to satisfy lien even though the state and county taxes are not delinquent.

May 1, 1940



Hon. James F. Hohimer  
Monroe County Collector  
Paris, Missouri

Dear Sir:

This will acknowledge receipt of your letter of April 17, 1940, which is as follows:

"The village of Stoutsville, this County, has the sum of about \$300.00 in delinquent taxes. The Village Clerk wants to certify the delinquent list to me for collection. Do I have to accept the list under Section 7109 R. S. 1929? And is it essential that such list be certified on or before the first Monday in March as recited in Section 9970, page 451 of the Session Acts of 1933?"

"If the same parcels certified as delinquent by the Village Clerk are not delinquent in county and state taxes, is it incumbent upon me to advertise such village taxes at the regular November sale?"

Section 7108 R. S. Mo. 1929 provides that the chairman of the board of trustees of a town or village shall obtain from the clerk of the county court, on the first day of June in each year, an abstract from his (the county clerk's) assessment books of all the property in the town made taxable by law for state purposes, and the assessed value thereof. Upon this abstract the board of trustees then is to make the annual tax levy for the year.

Section 7109 R. S. Mo. 1929 provides for the town collector to make a delinquent list of taxes remaining due and unpaid on the first day of January of each year and to return said list to the board of trustees. The board must examine said delinquent list at its next

meeting or as soon thereafter as is convenient, approve it and then said list with bills therefor is to be placed in the hands of the county collector who is to "proceed to collect the taxes due thereon, in like manner and with the same effect as delinquent taxes for state and county purposes are collected."

Section 9970, Laws of Missouri 1933, p. 451 provides:

"The collectors of all cities and incorporated towns having authority to levy and collect taxes under their respective charters or under any law of this state shall, on or before the first Monday in March, annually, return to the county collector a list of lands and lots on which the taxes or special assessments levied by such city or incorporated town remain due and unpaid. The county collector shall receipt for the aggregate amount of such delinquent taxes, which receipt shall be held by the treasurer of the city or town, and shall stand as evidence of indebtedness upon the part of the county collector and his bondsmen to such city or town, until settlement in full has been made by payment to said treasurer or his successor of all taxes thus receipted for, or by a return of such part as is uncollectible."

Under the above statutes it is clear that the county collector is charged with the duty of collecting delinquent real estate taxes of towns and villages and this being so he must accept the list and bills placed in his hands by the town or village.

The enactment of Section 9970, supra, had the effect of fixing the first Monday in March each year as the last date the list and bills are to be placed in the hands of the county collector, but this section does not prevent it being done sooner since it provides that it should be done "on or before" that date. However, even if the delinquent list was placed in the hands of the county collector after the first Monday in March, we think he must accept it, because the taxes contained in said list can still be collected. In *State ex rel. v. Stamm*, 165 Mo. 73, 83 it is said:

"Requirements that do not affect the rights or interests of the taxpayers, but made simply for the purpose of securing order, system and convenience in the dispatch of public business are directory in their character - a literal compliance with which is not essential to the validity of the tax."

The requirement that this list be delivered by the first Monday in March is such a provision, and the above case bears out our statement that the county collector must accept the list even if delivered late for the reason his duty is to collect the valid delinquent taxes of towns and villages and even though late the taxes are nevertheless valid.

It also is incumbent upon the county collector to proceed to advertise the delinquent list placed in his hands by the town or village at the time required by law even though the property contained in said list is not delinquent for state and county taxes.

Section 9952a, Laws of Missouri 1933, p. 430 provides:

"All lands and lots on which taxes are delinquent and unpaid shall be subject to sale to discharge the lien for said delinquent and unpaid taxes as provided for in this act on the first Monday in November of each year \* \*."

Section 9952, Laws of Missouri 1933, p. 429, makes it clear that the taxes mentioned in Section 9952a means also the taxes of towns and villages. This is ascertained from the fact that said section requires the county collector to make a book containing all real estate returned and remaining delinquent for taxes "including therein the delinquent taxes of all cities and incorporated towns having authority to levy and collect taxes \* \* \* separately stated".

According to the terms of Section 9952b, Laws of Missouri 1933, p. 430, the list of delinquent lands and lots that is advertised for sale is made up from the land and lots listed as delinquent in the book made by the county collector. The county collector is directed to cause a copy of "such list of delinquent lands and lots" to be printed in some newspaper and after the required

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publication said property is sold to discharge the lien.

It is apparent that the reference to "such list of delinquent lands and lots" in Section 9952a refers to the delinquent property required to be listed in the book the collector makes under Section 9952 and that book, containing the delinquent taxes of a town or village separately stated, is the list of "all lands and lots on which taxes are delinquent and unpaid" that are made subject to sale by Section 9952a. It is to be noted Section 9952a does not require all taxes, city, state and county, to be delinquent before the land is made subject to sale, but only requires that there be land or lots "on which taxes are delinquent and unpaid". The town's taxes are taxes and are clearly included by the provision of Section 9952 in the "taxes" referred to in Section 9952a that land may be sold to satisfy.

Any other construction would permit a person, if he so desired, to forever defeat the tax lien of a town or village by merely keeping his state and county taxes paid and thus prevent the sale of the property to satisfy the town's tax lien.

#### CONCLUSION.

It therefore is our opinion that the county collector must accept the delinquent list of land and lots placed in his hands by the board of trustees of a town or village and it is not essential this be done before the first Monday in March each year. Our opinion also is that land and lots must be advertised and sold by the county collector for the town and village taxes even though that is all that is delinquent, and said property is not delinquent for state and county taxes.

Respectfully submitted,

LAWRENCE L. BRADLEY  
Assistant Attorney-General

APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney-General.

LLB:CP:BJ