

TAXATION: PAYMENT OF TAXES WITH PROTESTED WARRANTS: Only the owner of a protested warrant may use same for the payment of taxes.

November 10, 1941

11/13
Mr. Lieu. Cunningham, Jr.
Attorney at Law
Camdenton, Missouri

FILE
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Dear Mr. Cunningham:

This is in reply to your letter of recent date in which you request an opinion on the following statement of facts:

"The County Collector of this County has requested I obtain an opinion from you concerning the following matter:

"In the past, certain banking corporations of this County have assigned their protested warrants to certain large tax payers of the County, to be applied upon their current county taxes, which of course, is permissible.

"However, it is the understanding of the Collector this year, that the banking corporations intend to obtain powers of attorney, or appointments of agents, for their banking corporations, from several of the larger tax paying corporations in the County, and then let the bank use their 'the Bank's' protested warrants for the payment of the tax paying corporations' current county taxes.

"I informed the Collector that it was my opinion that an agent could not use the agent's protested warrant for the payment of his principal's taxes, as only the legal holder of a protested County Warrant could apply their 'the Holder's' taxes. However, I would appreciate your opinion concerning this matter."

The section of the statutes which authorizes payment of taxes with protested warrants is 11082, R. S. Mo. 1939. This section reads as follows:

"Except as hereinafter provided, all state, county, township, city, town, village, school district, levee district, and drainage district taxes shall be paid in gold or silver coin or legal tender notes of the United States, or in national bank notes. Warrants drawn by the state auditor shall be received in payment of state taxes. Jury certificates of the county shall be received in payment of county taxes. Past due bonds or coupons of any county, city, township, drainage district, levee district or school district shall be received in payment of any tax levied for the payment of bonds or coupons of the same issue, but not in payment of any tax levied for any other purpose. Any warrant, issued by any county or city, when presented by the legal holder thereof, shall be received in payment of any tax, license, assessment, fine, penalty or forfeiture existing against said holder and accruing to the county or city issuing the warrant; but no such warrant shall be received in payment of any tax unless it was issued during the year for which the tax was levied, or there is an excess of revenue for the year in which the warrant was issued over and above the expenses of the county or city for that year."

From a statement of facts which you have submitted it appears that the banking corporations would be attempting to do indirectly that which they could not do directly. In other words, the banking corporations which are the legal holders of protested warrants contemplate obtaining powers of attorney from land owners and then using the protested warrants belonging to the banks for the purpose of paying county taxes.

We do not find any questions of this nature in cases reported, but we think that the law clearly indicates that it was the intention of the lawmakers to only permit the legal holder of the protested warrant to pay the taxes on his property with that warrant. On the question of which warrants may be used, I find that this department on February 13, 1935, by an opinion to the prosecuting

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of Miller County, discussed this point. I am enclosing a copy of this opinion for your information.

CONCLUSION

From the foregoing, it is the opinion of this department that banking corporations may not use protested warrants belonging to such a bank for the purpose of paying current county taxes of tax payers who are not the legal holders of such warrants.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

VANE C. THURLO
-(Acting) Attorney General

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