

SPECIAL ROAD DISTRICTS: Right to receive tax moneys in hands of township treasurer arising from road and bridge levies on land located within jurisdiction of special road district organized under Art. 18, Chap. 46, R. S. Mo. 1939.

March 5, 1945



Honorable Ray R. Pryer
Prosecuting Attorney
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Dear Sir:

Reference is made to your letter under date of February 17, 1945, reading as follows:

"A special road district was organized in Springfield Township, Henry County, Mo., in January 1945.

"This special district now is claiming a right to tax moneys collected by the Township Collector for the year of 1944, that is, to their pro-rata share of such moneys. They claim the right to road and bridge taxes collected against all lands lying in the newly organized special district. There is no dispute as to future collections, - merely tax moneys collected for the 1944 year.

"Under the law, a special district makes its own levies for revenue and does not benefit from the general moneys that come into the Township funds for road and bridge work. My theory is, that the special road district now having placed itself beyond the reach of Township funds and therefore not having had an opport to have made its own revenue producing levies, is entitled to the moneys derived in taxes by reason of

the Township levy as it applies to lands now within the boundaries of the special road district. Naturally, the Township Collector wishes an opinion on this matter before making disposition of the money in his hands."

On February 20, 1945, we wrote you for additional information on the following questions:

"(1) Has the township board of directors divided the township into road districts, wherein the newly created special road district has been incorporated, as provided by Section 8814, R. S. Mo. 1939?"

"(2) If so, are the boundaries of the new special road district coextensive with the boundaries of one or more of such road districts?"

"(3) Are any of such road districts created by the township board of directors, if any, operating under the contract system, as provided by Section 8826, R. S. Mo. 1939?"

We now have your response thereto, which reads as follows:

"Referring to your communication of Feb. 20, 1945, in which letter you ask concerning certain factual matters involved in the matter discussed, I will say: - the answer is 'no' to each of the questions (1), (2) and (3).

"The Special Road District was carved out of the Township mass without regards to any previous road districts and there are no involvements such as might arise under the Sections cited in your letter."

The right of the treasurer of the special road district to receive the tax moneys in the hands of the township treasurer standing to the credit of the road district, or districts, incorporated into the special road district is governed by a part of Section 8840, R. S. Mo. 1939, from which we quote:

" * * * The township boards shall also cause the township treasurer to pay over to the treasurer of the special road district all moneys in his hands belonging to the district or districts that have been merged into the special road district whenever the board of commissioners of such special road district shall make demand therefor. * * * "

We note from your answer of "no" to our inquiry (1), that the township board of directors had not prior to the organization of the special road district divided the township into road districts. In the circumstances, it may be difficult to ascertain the amount of money to be turned over to the special road district treasurer, in accordance with the above quoted portion of Section 8840, R. S. Mo. 1939, providing for such special road district to receive the money standing to the credit of the district, or districts, incorporated into the new special road district; however, the boundaries of the special road district have been definitely established, and it should not be impossible to determine the amount of road and bridge taxes arising from the land within that particular area.

With respect to the time the special road district is entitled to receive the money, we think the last clause of the quoted portion of Section 8840, R. S. Mo. 1939, is controlling. It definitely states that such transfer shall be made "whenever the board of commissioners of such special road district shall make demand therefor." As further indicative of the legislative intention that the newly organized special road district shall immediately enter into the performance of its duties, we call your attention to the further provision of the section mentioned:

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"The township board of trustees shall, upon the organization of such commissioners, cause all tools and machinery * * * to be delivered to said commissioners. * * * "

To the same effect is the provision contained in Section 8837, R. S. Mo. 1939, relating to the incorporation of the newly organized special road district, reading as follows:

" * * * Whenever an order is so made incorporating a public road district, such district shall thereupon become * * * a political subdivision of the state * * * ."

Such intent is further disclosed by the provision in Section 8838, R. S. Mo. 1939, relating to the appointment of the commissioners for the special road district, reading as follows:

"At the term of court in which such order is made, * * * the court shall appoint three commissioners, * * * who shall hold their office until the first Tuesday after the first Monday in January thereafter; * * * ."

Reading the entire article, particularly the quoted portions set out above, indicates to us the intention of the Legislature that the newly organized special road district shall immediately enter into the discharge of its governmental duties, and the further intention to implement such district with the money and equipment to carry on such duties.

CONCLUSION

In the premises, we are of the opinion that the special road district described in your letter of inquiry is now en-

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titled to the funds in the hands of the township treasurer arising from road and bridge taxes on lands lying within the boundaries of such special road district, upon proper demand therefor being made by the board of commissioners of such special road district.

Respectfully submitted

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APPROVED:

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