

TAXATION) Enlarged special road district entitled to proportionate share of road tax money thereafter collected in such enlarged special road district.

October 11, 1949

10/14/49

Honorable Raymond H. Vogel
Prosecuting Attorney
Cape Girardeau County
Exchange Bank Building
Jackson, Missouri



Dear Sir:

Reference is made to your request for an official opinion of this Department, reading in part as follows:

"In September, 1949, the boundaries of the Cape Special Road District of Cape Girardeau County, Missouri, were extended in conformance with the provisions of Section 8708 of the Revised Statutes of Missouri. The taxes on the newly extended portion of the road district were, of course, assessed as of January 1, 1949. The question arises as to whether the 1949 taxes in the newly extended portion of the special road district shall be paid over to the road district under the provisions of Section 8691 and Section 8527 of the Missouri Revised Statutes.

* * * * *

"I should appreciate your opinion as to whether or not the 1949 taxes on property lying in the extended portion of the Cape Special Road District shall be paid to the road district by the county."

Section 8527, Missouri R.S.A., reads in part as follows:

"In addition to other levies authorized by law, the county court in counties not adopting an alternative form of government and the proper administrative body in counties adopting an alternative form

of government, in their discretion may levy an additional tax, not exceeding thirty-five cents on each one hundred dollars assessed valuation, all of such tax to be collected and turned into the county treasury, where it shall be known and designated as 'The Special Road and Bridge Fund' to be used for road and bridge purposes and for no other purpose whatever; provided, however, that all that part or portion of said tax which shall arise from and be collected and paid upon any property lying and being within any special road district shall be paid into the county treasury and four-fifths of such part or portion of said tax so arising from and collected and paid upon any property lying and being within any such special road district shall be placed to the credit of such special road district from which it arose and shall be paid out to such special road district upon warrants of the county court, in favor of the commissioners or treasurer of the district as the case may be; * * *"

(Underscoring ours.)

Similarly, Section 8691, Missouri R.S.A., provides as follows:

"In all counties in this state where the special road district, or districts, has or have been organized, or where a special road district, or districts, may be organized under this article, and where money shall be collected for road and bridge purposes under the provisions of Section 8527 upon property within such special road district, or districts, or where money shall be collected for pool or billiard table licenses upon any business within such special road district, or districts, the county court shall, as such taxes or licenses are paid and collected, apportion and set aside to the credit of such special road district, or districts, from which said taxes were collected, four-fifths of such part or portion of said road and bridge tax so arising from and collected and paid upon any property lying and being within any such special road district, or districts, and also one-half of

the amount collected for pool and billiard table licenses so collected from such business carried on or conducted within the limits of such special road district; and the county court shall, upon application by said commissioners of such special road district, or districts, draw warrants upon the county treasurer, payable to the commissioners of such special road district, or districts, or the treasury thereof, for four-fifths of such part or portion of said road and bridge tax so collected upon property lying and being within such special road district, or districts, and also one-half of the amount collected for pool and billiard table licenses so collected from such business carried on or conducted within the limits of such special road district, or districts."

(Underscoring ours.)

From the foregoing statutes, it is apparent that the fact of collection of the taxes upon the property within the special road district is made the determinative factor as to whether or not such special road district is entitled to its pro rata share of such taxes. The time of assessment, levy, etc., is not considered, and, therefore, we conclude that under the facts outlined in your letter with respect to the time of extension of the boundaries of the existing special road district that such special road district is entitled to its pro rata share of all taxes thereafter collected upon property located within such extended special road district.

The problem of ascertaining property lying within the boundaries of the special road district as enlarged is quite simply solved. Your attention is directed to Section 8708, R. S. Missouri, 1939, wherein the scheme for the submission of the proposed extension of the boundaries of the special road district to the voters is outlined. After providing for the filing of the petition, notice of election, etc., this statute required the county court to examine the returns of the election, and if it be found that the proposition has carried, such court "shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election."

Hon. R. H. Vogel

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CONCLUSION.

From the foregoing, we are of the opinion that road taxes collected on property lying within the extended boundaries of an enlarged special road district are to be apportioned to such special road district in accordance with Sections 8527 and 8691, Missouri R.S.A.

Respectfully submitted,

WILL F. BERRY, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB/feh