

March 14, 1973

OPINION LETTER NO. 75
Answer by Letter - Klaffenbach

Honorable Ralph Uthlaut, Jr.
Missouri Senate, 23rd District
Room 424 State Capitol Building
Jefferson City, Missouri 65101



Dear Senator Uthlaut:

This letter is in response to your opinion request in which you ask the following questions:

"The County Court of Gasconade County, Missouri, by its order dated August 30, 1971, effective August 31, 1971, ordered the dissolution of the Owensville Area Hospital District according to the provisions of 206.120.

"This section provides that upon dissolution 'any funds remaining on hand and belonging to the district shall forthwith be paid pro-rata to those taxpayers from whom they were collected.

1. What disposition can or should be made of the funds of a deceased taxpayer who left no estate or whose estate has been closed?

2. What disposition can or should be made of the funds of taxpayers who cannot be located and whose addresses are unknown after diligent efforts to determine the same?

3. Does the County Collector have the authority to return delinquent hospital tax funds received from taxpayers after the effective date of the dissolution, without any further proceedings?"

Honorable Ralph Uthlaut, Jr.

Subsection 3 of Section 206.120, RSMo, to which you refer, provides:

"If less than the required majority of the votes cast are for the first loan submitted to the voters following the organization of the district, a second authorized proposition for authority to borrow money may be submitted and if unsuccessful a third election may be held. If each of the first three propositions submitted to the voters for authority to borrow money for the purposes of this section is defeated, or if no successful election for such purpose is conducted within five years after the establishment of the district, then the district shall be immediately dissolved by order of the county court establishing it, and any funds remaining on hand and belonging to the district shall forthwith be paid pro rata to those taxpayers from whom they were collected; provided that in any district wherein a hospital is in operation without having voted bonds, the provisions of this section as relating to dissolution shall not apply." (Emphasis added)

The underscored provisions were added by the amended laws of 1967. Similar provisions are contained in Section 198.360, RSMo Supp. 1971, relating to nursing home districts, added by the amended laws of 1969. We find no court decisions or statutes precisely applicable to your first two questions respecting distribution of such assets when the persons are deceased and no executor or administrator comes forward to make a claim or where the taxpayer cannot be located. However, we believe your questions one and two are answered by the enclosed opinion, No. 203, dated February 27, 1968 to Schechter, and the earlier opinions, No. 6, dated October 31, 1941 to Bell. That is, we believe that the common law compels an escheat to the State of Missouri of such unclaimed funds. Obviously, the situation is one which should be clarified by legislation. Compare Section 202.060, RSMo. We point out, however, that it is our view that an attempt should be made to notify the heirs of such taxpayers of the fact that such money may be claimed prior to an escheat.

In response to your third question concerning whether the county collector has the authority to return delinquent hospital tax funds to such taxpayers, our answer is clearly "no".

Honorable Ralph Uthlaut, Jr.

The collector is only a conduit, so to speak, and he has no authority to make a distribution to taxpayers because of the dissolution of the district.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 203
2/27/68, Schechter

Op. No. 6
10/31/41, Bell