

SENATE BILL 80--Remission of penalties, etc. applies to
railroad taxes.

May 27th, 1933



Hon. Forrest Smith,
State Auditor,
Jefferson City, Missouri

Dear Sir:

We acknowledge receipt of your request for an opinion respecting the operation of Senate Bill 80 as to delinquent railroad taxes, said request reading as follows:

"On April 11th, 1933 you were kind enough to render an opinion relative to Senate Bill 80 pertaining to the remission of penalties on delinquent taxes; however, there is one point which has now arisen that was omitted from that opinion, namely; 'Q. Does Senate Bill 80 remit the penalties on railroad taxes as set up on the railroad tax book provided for in Section 10030, R. S. Mo. 1929?' "

It is the opinion of this office that the above question must be answered in the affirmative, for the following reasons:

(1) It was unquestionably the intent of the Legislature to include these taxes. The intent and purpose of Senate Bill 80 as to expedite the collection of revenues so as to relieve the acute financial situation facing the State Institutions, Public Schools and the various other political subdivisions of the State. Delinquent railroad taxes constituted a substantial amount of the delinquencies existing at the time of the passage of Senate Bill 80. To exclude them would be to defeat the purpose of the bill.

(2) As further evidence of the Legislature's intent to extend the operation of Senate Bill 80 to all delinquent taxes, we point to the fact that the General Assembly after confining the operation of the Bill to those delinquent taxes as set forth in Chapter 59 (which was an unintentional restriction) the General Assembly recalled the Bill in consideration of the Chief Executive and struck from the Bill the phrase which confined it to the delinquencies as set forth in Chapter 59. This is an indication that cannot be overlooked that the intent of the Legislature was to include all delinquencies coming within its term.

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(3) Although Senate Bill 80 refers to the taxpayer as a "person", that term is sufficiently broad to include a railroad corporation as evidenced by the definition of the term "person" as used in the revenue laws of the State. This definition is set forth in Section 9977 R. S. Mo. 1929 which reads as follows:

"* * * And the word 'person', as used in this Chapter, shall be held to mean and include person, firm, company, corporation or otherwise, whenever the case may so require its use or application."

The Chapter referred to in the above definition is Chapter 59 R. S. Mo. 1929; The Chapter referring to taxation and revenue.

(4) The term "list of delinquent back taxes" as used in Senate Bill 80 is sufficiently broad to include the list of delinquent railroad taxes. Section 10030 R. S. Mo. 1929 provides for a separate tax book to be known as the Railroad Tax Book which is prepared by the Clerk much in the same manner as other tax books. Section 10035 provides that any railroad taxes not paid on or before the 1st day of January next after the same shall have been levied, "shall be on and after that date, known and treated as delinquent railroad taxes". Accordingly, on the 1st day of January following the assessment of the tax, the separate railroad tax book becomes a delinquent railroad tax book for that year and the terms of Senate Bill 80 are sufficiently comprehensive to include this delinquent list within its term.

Respectfully submitted,

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Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

HGW/mh