

Taxation: Collection of delinquent railroad tax; suit to enforce payment not barred by Senate Bill 80. *Laws 33*

June 3rd, 1933 *6-10*



Hon. F. M. Brady,  
Prosecuting Attorney,  
Warsaw, Missouri.

My dear Mr. Brady:

I acknowledge receipt of your letter requesting an opinion of this office respecting the collection of delinquent railroad taxes parts of which read as follows:

" The Missouri Pacific Railroad Company has failed to pay its 1932 taxes in Benton County and we would like to bring suit for them and would appreciate any suggestions as to any new method of proceedings if there is any change from the former law.

Have also heard that some sort of Bankruptcy or Receivership was in effect as the Missouri Pacific Railroad Company and would appreciate any information you may have as to this and if it would affect a suit against the Company for taxes."

In the last Session of the Legislature, Senate Bill 80 was passed by the General Assembly and approved by the Governor on April 13th, 1933. This Bill among other things provided that the collectors of revenue of the counties and cities of the State are authorized and directed to accept the original amount of the taxes due from any taxpayer on a delinquent personal list or assessed against any real estate contained in the back tax book without the payment of penalties, interest and costs provided the payment of the original amount of the tax is made prior to June 30th, 1933. While this Act permits the taxpayer to pay the face amount of his taxes without any penalty, interest and cost, it does not prevent or bar the institution of any action upon the delinquent tax. Accordingly, while you are not prohibited from instituting the suit, the Missouri Pacific Railroad Company is permitted under this law to tender and pay to your collector the original amount of the tax without penalty, interest or cost, providing such payment is made before June 30th. If such payment is made between June 30th and August 31st, 1933

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the collector is authorized and directed to accept the original amount of the tax plus 25% of the accrued interest, penalties and costs. If payment is made between August 31st and October 31st, 1933 the collector is authorized and directed to accept the original amount of the tax plus 50% of the accrued interest, penalties and costs. If paid between October 31st and December 31st, 1933 the collector is authorized and directed to accept the original amount of the tax plus 75% of the accrued interest, penalties and costs. If not paid on or before January 1st, 1934 the taxpayer is required to pay the original amount of the tax plus all accrued interest, penalties and costs as though Senate Bill 80 had not been enacted.

I am attaching hereto a copy of Senate Bill 80 for your information. I am enclosing to you a copy of an opinion of this office respecting the applicability of Senate Bill 80 to delinquent railroad taxes.

In reply to the matter contained in your second paragraph above quoted, I advise that conservators have been appointed for the Missouri Pacific Railroad as provided by the recently enacted amendment to the Federal Bankruptcy Act, which may be found in the May 1933 Cumulative Pamphlet of the United States Code Annotated. If you desire to prosecute your suit for taxes regardless of Senate Bill 80 and desire information as to the effect of the receivership on your suit, kindly make a further request to this office setting forth the particular matters upon which you desire information.

Yours very truly,

HARRY G. WALNER, Jr.,  
Assistant Attorney-General

APPROVED:

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ROY McRITTRICK  
Attorney-General

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