

TAXATION: Collection of delinquent taxes of cities of the fourth class provided for in Section 6695, R. S. Mo. 1929, not affected by Senate Bill 94 or 96 amending Chapter 59. Cross reference under delinquent taxes of cities of the fourth class

6695 - R. S. Mo. 1929

June 27th, 1933 7-4

9970 Laws 33



Hon. Minor C. Livesay,  
Prosecuting Attorney,  
Versailles, Missouri.

Dear Sir:

We herewith acknowledge receipt of your letter of June 10th, wherein you request an opinion of this Office which request reads as follows:

" The following question arises under the law, passed at the last session of the Missouri State Legislature, regarding the delivery of the City Tax records to County Collector on the 1st of March each year for collection. The question is:

Shall the City now deliver the list of taxes to the County Collector? The City of Versailles has been using a special tax attorney for the collection of these taxes. Is there any other method of collecting other than delivering to County for collection? "

In approaching this question, we must keep in mind that the City of Versailles is a City of the fourth class. The manner of collecting delinquent city taxes for cities of the fourth class is governed by the provisions of Section 6995, Revised Statutes of Missouri 1929 and the succeeding cited Sections. It is undoubtedly under the authority of these Sections that your City Collector has been referring the delinquent taxes to a tax attorney for collection instead of certifying them to the County Collector as provided by Section 9970 of the Revised Statutes of Missouri 1929.

The law to which you refer as having passed the last session of the Legislature regarding the delivery of city tax records to the County Collector, we assume is the amended Section 9970 Revised Statutes of Missouri 1929. The only amendment made or change made was the change of "first day of May" to "first Monday in March" and aside from this change, Section 9970 as amended by Senate Bill 96 is identical with Section 9970 as is found in the Revised Statutes of Missouri 1929.

As to whether or not this amendment would require your City Collector to forward delinquent lists to the County Collector under this provision or to continue under the practice of forwarding these delinquent and unpaid taxes to a tax attorney is the question to be determined by this opinion.

It seems that the Courts of this State have held that the collection of delinquent city taxes in cities of the fourth class are not governed by the provisions of 9970 but are controlled by the provisions of Section 6995 and following Sections. The Supreme Court in the case of State ex rel Duple v. Lewis, 256 Mo. 121, in considering a suit brought to enforce delinquent city taxes due a city of the fourth class, stated as follows:

" \* \* \* the point is made by the respondents that the action was not brought in the name of the proper party plaintiff, in this, as respondents aver, that it was brought in the name of the 'City of Princeton at the relation of the Collector', whereas respondents urge that it should have been brought in the name of the 'State of Missouri at the relation and to the Use of the City Collector of the City of Princeton'. \* \* \*

"Recurring to the objection made by respondents, and looking to the files, we find that the style of the case which is attacked, is not due to any fault of appellant. The action was correctly brought in the name and style of 'State of Missouri at the relation and to the Use of Grant Duple, Collector of the Revenue of the City of Princeton, Mercer County, Missouri, Plaintiff, v. Robert W. Lewis, \* \* \*'. Somewhere the style of this case has been changed without the fault, so far as we are able to see, of appellant \* \* \*. We agree with learned counsel for respondents that the statute now in force requires these suits to be brought in the name of the State of Missouri at the relation and to the use of the city collector, naming him, and the city for which he sues (Sec. 9348, R. S. 1909); but since we find from an examination of the files that this precise thing was done, we must disallow this point. "

*By tracing back to Section 6695, R. S. Mo. 1929, we find that it is identical with Section 9348, R. S. Mo. 1909. Accordingly, any suits brought on delinquent taxes for cities of the fourth*

Hon. Minor C. Livesay

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class should be brought under the provisions of Section 6995.

The 57th General Assembly dealt very exhaustively in the matter of delinquent taxes and enacted many statutes looking to their efficient collection. However, we find no repeal or amendment to Section 6995 and we are accordingly of the opinion that the Legislature intended no change to be made in the method of collection of delinquent taxes under that Section.

It is therefore the opinion of this Office that your City Collector is not required to deliver a list of delinquent and unpaid city taxes to your County Collector under the provision of Section 9970 as amended by the 57th General Assembly.

Respectfully submitted,

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

APPROVED:

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ROY McKITTRICK  
Attorney-General

HGW/mh