

SUPPLEMENTAL OPINION.

TAXATION: Various problems concerning the application of Senate Bill 94 to the collection of delinquent State and County taxes. Should be cross indexed under Delinquent taxes.

11-23  
November 15, 1933



State Tax Commission  
Jefferson City, Missouri

Attention Hon. Andrew J. Murphy.

My Dear Judge Murphy:

In accordance with my conference with you of this date respecting the opinion heretofore rendered the Commission, dated August 8, 1933, entitled "Taxation--Various problems concerning the application of Senate Bill 94 to the collection of delinquent State and County taxes," I herewith render you a supplemental opinion in respect to your inquiry No. 8, which inquiry reads as follows:

"At what exact date or time do taxes become levied and assessed as to the collector's duty to certify. Section 9963b. 6-7."

The following portions of the section are pertinent to this inquiry:

"Sec. 9963b. MANNER OF COLLECTING INSURANCE ON PROPERTY--WHO SHALL RECEIVE SAME--FORM. In the event of the destruction by fire, wind-storm or tornado of any permanent buildings\* \* situate upon any land\* \* \*which\* \* \*at the time of destruction were situate upon any land\* \* \*against which taxes were then levied and assessed, and was so situate at the time of such levy and assessment, the lien of such taxes shall attach to and follow any insurance that may be upon said property at the time of its destruction\* \* \*provided however, if in the opinion of the county collector the destruction of such building\* \* \*will not prejudice the collection of such taxes\* \* \*the county collector shall be authorized in writing,\* \* \*to waive and\* \* \*release the lien by this section given. \* \* \*The assured\* \* \*shall file with such company a statement from the collector\* \* \*in writing, \* \* \*that there are no taxes against said building\* \* \*or that taxes exist against the

same and the amount and description thereof,  
and whether or not such lien is waived. \* \* \*

Taxes levied and assessed have at all times been a lien upon the real estate taxed. To further secure these taxes, the insurance upon the improvements on the land was made amenable to this lien. A study of the foregoing section leads us to believe that no new lien was created, but the lien heretofore existing on real estate is simply extended to the insurance. The phrase "the lien of such taxes shall attach to and follow" does not contemplate a new and separate lien on the insurance, as distinct from the lien on the real estate, but refers to one lien upon the real estate and insurance.

While we have not overlooked the clause that states that the insurer shall pay the taxes, etc., then due, levied and assessed, it is our opinion that the lien extended to such insurance is the lien as exists upon the land, i.e.;- for taxes levied and assessed, whether due or not. It is possible that under these circumstances, the collector could not state the amount of such taxes. In this event, he could only state such taxes had been levied and assessed, but the exact amount thereof was undetermined.

It is therefore the opinion of this office that whatever lien exists upon the land for the payment of taxes, is by the terms of Senate Bill 94 extended to the insurance in the event of a destruction, contemplated in Section 9963b, and that the statement required of the Collector by this act should cover all taxes levied and assessed whether or not the amount of the tax is ascertainable from his records. However, it would be our further opinion that in the event there are taxes levied and assessed but the amount of which is not ascertainable from the tax books in the possession of the Collector, the Collector would be carrying out the intent of the act by waiving the lien for such taxes providing there has not been a total destruction of the improvements or that the destruction has not materially damaged the improvements thereon situated, so as to jeopardize the collection of the taxes.

Respectfully submitted,

HARRY G. WALTNER, JR.  
Assistant Attorney General.

APPROVED:

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