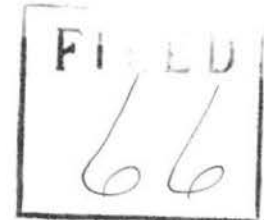


NOTICE: Institution of suits not stayed by Senate Bill 80.

October 27, 1933



Neuhoff & Millar
Rialto Building
320 N. Fourth St.
St. Louis, Missouri

Gentlemen:

We acknowledge receipt of your letter of recent date wherein you request an opinion of this office as to whether or not Senate Bill 80, found at page 423, Laws of Missouri 1933, stays the bringing of suit for taxes for personal property until after December 31, 1933. For convenience we herewith quote that act:

"In payment of the taxes assessed against any person whose name appears upon the personal delinquent list of any year or years prior to January 1, 1933, and in payment of the taxes assessed against any real estate which appears upon the lists of delinquent and back taxes of any year or years prior to January 1, 1933, including delinquent taxes for the year 1933, the collectors of revenue of the counties and cities of this state are hereby empowered and directed to accept the original amount of said taxes as charged against any such person or real estate relieved of the penalties, interest and costs accrued upon the same; Provided, however, that such remission of penalties, interest and costs shall be in full if said taxes are paid not later than June 30, 1933; if paid after June 30, 1933, and not later than August 31st, 1933, then such remission shall be 75 per cent of such penalties, interest and costs; if paid after August 31st, 1933, and not later than October 31, 1933, such remission shall be 50 Per cent of such penalties, interest and costs; if paid after October 31, 1933, and not later than Dec. 31, 1933, then such remission shall be 25 per cent of such penalties, interest and costs; Provided further, that after Dec. 31, 1933, all penalties, interest and costs as aforesaid shall be restored and be in full force and effect for the full period of time since their accrual and as if this act had not been passed."

The Supreme Court of Missouri in the case of State ex rel. McKittrick vs. Bair, reported at 63 S. W. (2d) p. 64, determined the subject of your inquiry after noting the similarity of Senate Bill 80 and the Act of 1877 remitting penalties upon delinquent taxes. The Court made this statement respecting Senate Bill 80, I.c. 67:

"So we think that under a proper construction of the statute assailed in the instant case the filing of suits for delinquent taxes and penalties is not prevented, but that penalties are remitted, in the manner provided in No.80."

While we agree that the bringing of suits upon these delinquent taxes was not in accord with the operation of Senate Bill 80, on the other hand it is our opinion that the Collector is within his statutory right in doing so and suggest that your clients' remedy is to pay the tax plus 50% of the interest penalties and costs which have accrued, as under Senate Bill 80 if payment is made prior to the 31st of October your client is entitled to the 50% remission.

Respectfully submitted,

HARRY G. WALTNER, JR.
Assistant Attorney General.

APPROVED:

Attorney General.

HGS:MM