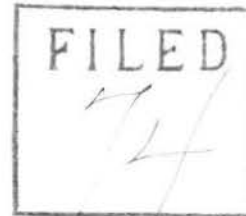


20 Smith  
TAXATION: Judgment for taxes rendered prior to 4-13-33 not  
subject to Senate Bill 80.

October 7, 1933



Mr. Leon Pugh  
Mt. Vernon, Mo.

My Dear Mr. Pugh:

Your request for an opinion of this office reading as follows, has been referred to the writer:

"Would a Judgment rendered on January 18th, 1933, for back taxes be a void Judgment? Suit was begun in 1932.

Would above Judgment be effected by Senate House Bill No. 80?

An Early reply will be appreciated."

Senate Bill 80 above referred to was passed by the 57th General Assembly to be immediately effective upon the date of its approval. It was approved by the Governor April 13, 1933. The judgment referred to had become final on January 18, 1933. At that time the interest of the parties had become finally settled. While the Court has not been called upon to pass upon the effect of Senate Bill 80 upon a judgment rendered prior to April 13, 1933, we find that Judge Hayes in the case of State ex rel. McKittrick vs. Baer made the following statement:

" \* \* \* The Thirty-eighth General Assembly passed an Act (Laws 1895, p. 243.) remitting penalties which seems to have furnished the pattern for No. 80. Unlike the latter the former conditioned the remission, in instances where suits had been filed, upon the taxpayer's paying the costs together with attorney's fees. In construing the latter provision this court in State ex rel. vs. Edwards, 182 Mo. 660, held, that the Act simply gave the taxpayer an opportunity

to avoid the costs and penalties by tendering the amount of the original tax before suit was brought and before the act expired by limitation. 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, upon proper tender of payment of the original taxes, without penalties, fees or costs, before judgment rendered (except as noted later)."

It is our interpretation of this opinion that the exception noted was in the case judgment was rendered subsequent to April 13, 1933, and while Senate Bill 80 was effective, the judgment under such circumstances having no validity or force which would defeat the operation of Senate Bill 80, but if judgment was rendered prior to April 13, 1933, Senate Bill 80 would be inoperative as to that judgment.

The judgment having vested the right to these various additional charges, the right of the Legislature to remit these charges is barred by Section 51 of Article IV of the Constitution. This section reads as follows:

"The General Assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part the indebtedness, liability or obligation of any corporation or individual to this State, or to any county or other municipal corporation therein."

Therefore, it is the opinion of this office that the rendering of a judgment for delinquent taxes prior to April 13, 1933, establishes a liability within the meaning of Section 51 of Article IV above quoted and therefore the judgment is not void but is effective and not subject to the operation of Senate Bill 80.

Respectfully submitted,

HARRY G. WALTNER, JR.  
Assistant Attorney General.

APPROVED:

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Attorney General.

HGW:MM