

TAXATION: Back tax collections to be apportioned to various funds, cannot be lumped in school fund.

1/22
January 18, 1934.

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Hon. Edward Cusick
Prosecuting Attorney
Pulaski County
Waynesville, Missouri

Dear Mr. Cusick:

We herewith acknowledge receipt of your letter of January 1, 1934, wherein you request an opinion of this office on the following matter:

"I understand that it has been the practice in past to place the back tax fund into the teachers fund in this county, will you kindly advise if this practice is correct, or, should the back taxes be apportioned to the various funds for which they were levied, and if so, how should this be apportioned."

We shall predicate our remarks respecting your inquiry upon the following statement to-wit, back taxes are in no event to be considered as differing essentially from current taxes in that their constituent parts lose their identity upon becoming delinquent. In other words, the purpose for which the taxes are levied and collected is in no manner changed by reason of the taxes not being paid promptly. They are still levied and assessed for the purposes set out and the County Court has incurred obligations chargeable to the respective funds in anticipation of the collection of these taxes.

I.

BACK TAXES TO BE APPORTIONED IN
SAME MANNER AS CURRENT TAXES OF
SAME YEAR.

Taxes, whether current or delinquent, are levied for public purposes and the various items making up the tax bill

are to be apportioned to the funds for which they were levied and assessed.

Section 9927 R. S. No. 1929, provides:

"Every county collector and ex officio county collector, * * * shall, on or before the fifth day of each month, file with the county clerk a detailed statement, verified by affidavit, of all state, county, school, road and municipal taxes, and of all licenses by him collected during the preceding month, and shall, on or before the fifteenth day of the month, pay the same, less his commissions, into the state and county treasuries, respectively, * * *"

Various other sections place other duties upon the collector, as Section 9973, providing:

"The county collector shall, whenever he makes a statement of tax collections to the county court as required by law, also furnish the treasurers of the cities and incorporated towns a statement of all delinquent and back taxes due such cities and towns which have been collected to that date, accompanied by the amount thus collected. * * *"

Section 9525 respecting school districts in cities of 75,000 to 500,000 inhabitants, provides:

"The county collector and the county treasurer shall pay over to the treasurer of such school district all moneys received or collected by them, to which said district is entitled, at least once in every month; * * *"

Section 9340 provides in similar language respecting city, town and consolidated schools:

Section 9265, pertaining to schools of all classes, provides:

"The collector shall, at the time of returning the land delinquent list for state and county taxes, return therewith all land school taxes herein provided for which shall remain unpaid, and when so returned, the same shall be a lien on such real estate, and be collected in the

same manner that other delinquent taxes on land are collected; and when so collected shall be paid over to the county treasurer as other school taxes."

It is to be noted that all of these sections make no distinction between delinquent and current taxes so far as the duties of the collector are concerned in making remittance. Each requires the money to be paid to the respective treasurers. Particular attention is directed to Section 9927, the general section, which requires the collector to pay "taxes" to the respective treasurers. This, of course, would include all taxes whether delinquent or current.

Our conclusions from the foregoing paragraphs are fortified by the provisions of Section 9950 found at page 427 Laws of Missouri 1933. This section makes provisions for the compromise of back taxes in the event the value of the land is not sufficient to pay the amount of taxes, penalties and costs accrued against the land. This section contains the following proviso:

"* * * in case said court or other proper officer shall compromise and accept a less amount than shall appear to be due on any tract of land or town lot, as charged on said 'back tax book' or recorded list of delinquent land and lots in the collector's office, it shall be the duty of said court or other proper officer to order the amount so paid to be distributed to the various funds to which said taxes are due, in proportion as the amount received bears to the whole amount charged against such tract or lot."

CONCLUSION.

It is therefore the opinion of this office that back taxes, when collected, should be accounted for by the county collector as other funds and should be apportioned by the proper officer to the various funds for which the same are levied and collected.

Respectfully submitted,

HARRY G. WALTNER, JR.
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.