

RELATING TO COUNTY WARRANTS:

- (1) WARRANTS ARE ACCEPTABLE IN PAYMENT OF TAXES.
- (2) COUNTY TREASURER SHOULD ACCEPT AND GIVE CREDIT TO COLLECTOR FOR ALL SUCH WARRANTS.
- (3) SECTION 9911 R.S. 1929 NOT REPEALED BY SECTION 22 LAWS OF MISSOURI, 1933, PAGE 351.

10-5

September 21st, 1934



Hon. A. J. Cypret
Treasurer Oregon County
Alton, Missouri

Dear Sir:

We acknowledge receipt of your letter of date September 10th in which you state and inquire as follows:

"We, have had here in this County a great deal of people paying taxes with county warrants since the warrants have not had ready sale. Taking in the way that the law prescribes that they may be used on taxes, now that we have the new budget working and the priority of payment on class one and two being set out. And the law says that this shall be "Sacredly Preserved" (Priority). I was wondering if you have an opinion or would give one at once as the time is not far off until we will be asked to take them.

We have had enormous lot of taxes paid by warrants and if it goes the same way it will delay the payment of the favored classes."

I.

Warrants are acceptable in payment of taxes when issued and received in payment of a tax during the year for which that tax was levied.

Section 9911 Revised Statutes 1929 provides as follows:

"Except as hereinafter provided, all state, county, township, city, town, village, school district, levee district and drainage district taxes shall be paid in gold or silver coin or legal

tender notes of the United States, or in national bank notes. Warrants drawn by the state auditor shall be received in payment of state taxes. Jury certificates of the county shall be received in payment of county taxes. Past due bonds or coupons of any county, city, township, drainage district, levee district or school district shall be received in payment of any tax levied for the payment of bonds or coupons of the same issue, but not in payment of any tax levied for any other purpose. Any warrant, issued by any county or city, when presented by the legal holder thereof, shall be received in payment of any tax, license, assessment, fine, penalty or forfeiture existing against said holder and accruing to the county or city issuing the warrant; but no such warrant shall be received in payment of any tax unless it was issued during the year for which the tax was levied, or there is an excess of revenue for the year in which the warrant was issued over and above the expenses of the county or city for that year."

It appears from the foregoing section 9911 (Supra), that the warrants must be presented by the legal holder, and also be issued and received in payment of a tax during the year for which the tax was levied.

In view of the provisions of said section 9911 (Supra), it is the opinion of this department that county warrants are acceptable for taxes. It may be said further that the fact that a party presenting a warrant which is less in amount than the taxpayer owes to the fund on which the warrant is drawn, would not alter the case; he should be given credit for the amount of the warrant on that particular fund.

II.

The county treasurer should accept and give credit to the collector for all county warrants accepted in payment of taxes in the monthly settlements of the collector.

Section 12140 Revised Statutes 1929, provides as follows:

"No county treasurer shall refuse payment of any warrant legally drawn upon him and presented for payment, for the reason that warrants of prior presentation have not been paid, when there shall be money in the treasury belonging to the fund drawn upon, sufficient to pay such prior warrants and any such warrant so presented; but such treasurer shall, as he shall receive money into the treasury belonging to the fund so drawn upon, set the same apart for the payment of warrants previously presented for the ordinary current expenses of the county as mentioned in the preceding section, and in the order presented, so that no such warrant of subsequent presentation shall remain unpaid by reason of the holder of such warrants of prior presentation failing to present the same for payment after funds shall have accrued in the treasury for their payment: Provided, however, that nothing herein contained shall prevent the treasurer from receiving from the collector all scrips and warrants lawfully received by him in the payment of county tax: Provided further, before the treasurer shall receive such scrips and warrants, the collector shall make out a list of such scrips and warrants, under oath, specifying the number and amount thereof, the date when received and from whom received; and said list shall be filed and preserved by the treasurer."

It appears from said section 12140 (Supa) that it specifically provides that the treasurer is not prevented from receiving from the collector such warrants. It therefore follows as a matter of inference that the treasurer must accept the warrants and allow the collector proper credit in his monthly settlements.

III.

Section 9911 Revised Statutes, 1929, was not repealed either directly or by implication by section 22 Laws of Missouri 1933, page 361.

Oregon County being a county of less than

50,000 inhabitants, sections one to eight inclusive, of what are known as the "Budget Law" are applicable to your county. A careful examination of sections One (1) to Eight (8) inclusive of Laws of Missouri, 1933, pages 340-6 fails to disclose that any provisions therein are in anywise in conflict with section 9911 (Supa).

Section 8, Laws of Missouri, page 346, there appears the following in parenthesis:

"This shall not apply to warrants lawfully issued for accounts due for prior years, lawfully payable out of funds for prior years on hand."

By reason of the foregoing provision, this department interprets the same to be the intention of the Legislature that county warrants used in payment of taxes are to occupy their same position.

Section 22 Laws of Missouri, 1933, page 351, provides as follows:

"All laws or parts of laws and expressly sections 9874, 9985 and 9986 in so far as they conflict are hereby repealed."

In conclusion we rule that no part of the 22 sections Laws of Missouri, 1933, page 340-351, either directly or by implication repealed the provisions provided in section 9911 (Supa) and that said section is now the law on that subject.

Yours very truly,

W. W. Barnes

Assistant Attorney General

APPROVED:

Attorney General