

TAXATION: Delinquent land taxes enforced under Senate Bill 94
after July 24, 1933.

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January 17, 1934.



Hon. John B. Owen
Prosecuting Attorney
Henry County
Clinton, Missouri

*See opinion
no 63-1933*

Dear Mr. Owen:

We acknowledge receipt of your request for an opinion
of this office reading as follows:

"Will you please advise if under the present
law a back tax attorney can proceed to file
suit and endeavor to collect delinquent taxes
and add all penalties as provided by the statutes
in such cases.

I take it that the waiving of penalties in 1933
is no longer in effect and that the present
status of the law is a reversion to the old
law which was in effect prior to the passage
of Senate Bill No. 80 of last year.

Our back tax collector and attorney in this
County are anxious to press the collection of
delinquent taxes. Please advise."

I.

CANNOT FILE SUIT FOR STATE AND
COUNTY DELINQUENT TAXES AFTER
JULY 24, 1933.

Senate Bill 80 as passed by the 57th General Assembly,
in regular session, and contained in Missouri Laws of 1933 at
page 423, was by the special session repealed and a new law known
as Senate Bill 40 enacted in lieu thereof. This new law became
effective on December 12, 1933, and expired by operation of law
December 31, 1933. See Senate Bill 40, Extra Session.

"Section 3. The provisions of this act shall
cease and be of no effect after December 31st,
1933."

January 17, 1934

Therefore, neither of these statutory provisions will at this time affect the institution or prosecution of suit for collection of delinquent taxes.

We direct your attention however to Senate Bill 94 as enacted by the 57th General Assembly and found at page 425 Laws of Missouri, 1933. By reason of this law Sections 9945, 9949, 9950, 9951, 9952, 9953, 9954, 9955, 9956, 9957, 9958, 9959, 9960, 9962, 9963 and 9969 of the 1929 Revision were repealed and new sections enacted in lieu thereof. See title to Act, page 425 Laws of Missouri, 1933. This new law sets up an entirely new and different method for the collection of delinquent land taxes. No provision whatsoever is made for the enforcement of the payment of delinquent land taxes by suit. As this new law does not have an emergency clause, it did not become effective until July 25, 1933. However, from and after that date there was no authority whatsoever for the institution of suits for the collection of delinquent land taxes. Suits may still be brought for the collection of delinquent personal taxes under the provisions of Section 9940 R. S. Mo. 1929, and as Senate Bill 80 was repealed and Senate Bill 40 expired December 31, 1933, such suits are not in any way effected by these acts.

CONCLUSION.

It is the opinion of this office that your back tax collector and attorney is not authorized at this time to institute suit for delinquent land taxes but is required to enforce the collection of these taxes under the provisions of Senate Bill 94, page 425, Laws of Missouri 1933, as hereinabove referred to.

Respectfully submitted,

HARRY G. WALTNER, Jr.
Assistant Attorney General.

APPROVED:

Attorney General.

HGW:MM