

TAXATION:

Senate Bill 94; limitations as applied to sales of delinquent real estate. Section 9961 Revised Statutes Missouri 1929, did not apply to Senate Bill 94 and lands for delinquent taxes for 1928 may be sold under the provisions of Senate Bill No. 94

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September 28, 1934



Honorable R. B. Osborn  
Prosecuting Attorney  
Greenville  
Missouri

Dear Mr. Osborn:

Receipt of your letter dated September 7, 1934 is acknowledged. Your letter is as follows:

"I have noticed in the press reports that the Collectors throughout the state are authorized to proceed to sell real estate for the delinquent taxes for the years 1928 and 1929. I have looked into this matter rather carefully, and it is my opinion that real estate cannot be sold for the delinquent taxes for the year 1928, unless an action for said taxes was instituted prior to January 1, 1934.

Under the provisions of Section 9961, Revised Statutes of 1929, a suit cannot be maintained for the collection of taxes delinquent more than five years. At the time of the enactment of the Jones-Munger tax law, the General Assembly of this state did not repeal said Section 9961, and therefore, the time within which to bring any action or proceeding for the collection of the delinquent real estate taxes for 1928 expired December 31, 1933.

At the Special Session of the General Assembly Section 9961 was repealed and a new section enacted in lieu thereof,

but it was not passed and approved until January 6, 1934. It did not contain an emergency clause, and did not take effect and become the law of this state until 90 days after January 11, 1934, the date of the adjournment of the Legislature. This law is found on pages 154 & 155 of the Laws of the Extra Session of the General Assembly in 1933 and 1934.

It is my opinion that since any action for the collection of delinquent taxes for the year 1928 were barred by the statute of limitation relating to tax suits on January 1, 1934, the amended law aforesaid providing for the collection of the 1928 taxes cannot be enforced, and that said provision in the amended law aforesaid is retrospective in its operation, and therefore, unconstitutional under the provisions of Section 15, Article 2 of the Constitution of Missouri.

This question will come before me a great many times this fall, and I want to be right about it, and I will appreciate your opinion on this matter very much."

We are inclosing you herewith portion of a copy of an opinion heretofore issued by this office and dealing directly with the matter discussed by you, which opinion speaks for itself.

It is our opinion that from the time Senate Bill 94, as found in Laws Missouri 1933, page 425, went into effect until the enactment of and going into effect of Section 9961 as found in Laws of Missouri, Extra Session 1933-1934, pages 154 and 155, there was no statute of limitation in effect in this state barring the sale of lands for delinquent taxes for any year, and that the limitation section found in Laws of Missouri, Extra Session 1933-1934, pages 154 and 155, was applicable and referred to sales of delinquent

Honorable R. B. Osborn

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September 28, 1934

lands and lots made under the provisions of the above mentioned Senate Bill 94.

Yours very truly,

GILBERT LAMB  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General.

GL:LC

Inclosure