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TAXATION: Penalties and Interest on 1932 taxes same as for 1933 taxes
under House Bill #124.

4-5
April 4, 1934.



Comptroller's Office
Department of Finance
St. Louis, Missouri

Attention: Mr. E. G. Schubkegel.

Gentlemen:

We acknowledge receipt of your request for an opinion of this office respecting House Bill #124, passed by the 57th General Assembly in Extra Session. Your request reads as follows:

"The Comptroller's office has had numerous inquiries regarding the interpretation of this bill due to the apparent difference in the intention as expressed in the title of this Act and in the actual phraseology of the Act as set forth under section (1) one.

From the title of this Act can be deducted that the intention, as clearly indicated, was to provide penalties on taxes of 1932, and prior years, only after December 31, 1933.

The actual phraseology of the bill itself fixes a penalty basis for taxes of 1932 and prior years at the same rate as applies to 1933 taxes, delinquent after December 31, 1933.

The Collector of the City of St. Louis has been requested by delinquent tax payers to accept payment on 1933 taxes at this time, the intention of the delinquent being to pay the 1932 and prior years taxes after the bill becomes effective, in the belief that the only penalties thereon would be those for the year of 1933.

In order to advise taxpayers in regard to correct interpretation of this bill, we hereby request the opinion of your office respecting House Bill #124."

House Bill 124 passed by the 57th General Assembly in Extra Session reads as follows:

"AN ACT For relieving delinquent taxpayers whose taxes, personal or real estate, were delinquent for the year 1932, and prior years, and providing for penalties thereon after December 31, 1933.

Section 1. That all penalties and interest on personal and Real Estate Taxes, delinquent for the year 1932 and prior years shall be computed after December 31, 1933, on the same penalty basis as the taxes delinquent for the year 1933 until paid."

As stated in your inquiry, the body of the act itself does not clearly indicate the scope of operation of the statute. The title indicates a remission of some kind or other for the benefit of the delinquent tax payer, but the body of the bill does not in plain words direct any such remission or waiver. We are therefore left to determine the intent of the legislature from the entire act. As stated by Judge Woodson, quoting from Thompson on Corporations, in the case of State ex rel. Major vs. Insurance Company, 224 Mo. 84, l. c. 92:

"The prime effort of all judicial interpretation is to ascertain what the legislature really intended in using the particular language."

In seeking this legislative intent we believe that the key to the interpretation of this act is found in the words "for relieving delinquent taxpayers" contained in the title to the Act. That we may consider the title to the Act in determining the legislative intent is well settled law in this state. We refer to the case of Thomas vs. Buchanan County, 51 S. W. (2d) 25, l. c. 98, wherein Judge Ellison made the following statement:

"* * * part of the respondents call attention to the fact that the title of the act designates the counties to which it applies as those "having a population of not less than ninety-five thousand inhabitants, and not more than one hundred and fifty thousand inhabitants, as shown by the last preceding decennial national census"
* * * whereas the body of the law omits all

reference to the census in setting out the population limits aforesaid. It is argued the title cannot be read into the text of the act, and that under the latter counties are to be classified by their actual population as locally determined, * * * * * This position, we think, is clearly untenable. The law is well established that in construing a statute the title may be considered. * * * * * "The body of the act not stating how the population is to be determined, undoubtedly the title may be resorted to in ascertaining the legislative intent."

We may even go so far as to say that the intent indicated by the title may be presumed to be expressive of the Legislative desire. In the case of *State vs. Schwartzmann Service*, 40 S. W. 479, 1. c. 480, we find the following:

* * * * * "If the provisions contained in the body of the act are expressed in ambiguous or doubtful language, or so as to be fairly susceptible of more than one interpretation, then it is permissible and proper to consider the title of the act as a clue or guide to the intention and meaning of the Legislature. It will be presumed that the true intent and meaning is to be found in the title, unless it is plainly contradicted by the express terms of the body of the act. * * * * *

As we find the guide to the legislative intent in the passing of this bill in the title, the act itself must be given a construction which will effectuate that intent. If we are to construe this act as applying only to the rate of penalties and interest, we shall entirely defeat the legislative purpose as expressed in the phrase "for the relief of delinquent taxpayers", for under the provisions of previous legislation, interest and penalties on taxes for the year 1932 and prior years are required to be computed at the same rate as are interest and penalties on delinquent taxes for the year 1933. On the other hand, if we construe this act as placing taxes for the year 1932 and prior years on the same basis as taxes for the year 1933, in the computing of the penalties and interest required to be paid, definite and certain relief will be given to the delinquent taxpayers of this state, resulting in the waiver or remittitur of all interest and penalties accruing on such taxes prior to the first day

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of January 1934.

As the latter construction effectuates the purpose of the act we must adopt that as the true meaning of the law. We call to your attention that we are not passing upon the constitutionality of this enactment.

CONCLUSION.

It is therefore the opinion of this office that under the provisions of House Bill 124, personal and real estate taxes for the years 1932 and prior years are to be treated as though they were taxes for the year 1933 insofar as the assessment of interest and penalties are concerned, and that no greater interest or penalty is to be collected upon such taxes than would be collected upon 1933 taxes of the same amount.

Respectfully submitted,

HARRY G. WALTNER, JR.
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

HGW:MM