

TAXATION:-where drainage district acquired land upon which there are delinquent state, county, school and road taxes, it takes such land subject to the taxes, which may be enforced by such political subdivision if not paid.

September 14, 1934.



Mr. H. A. Wright,  
Clarence, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"Some months ago one of the assistant attorney generals wrote a letter to W. E. Roy, Secretary of Valley Drainage District, advising him that drainage districts do not have to pay state and county taxes on lands taken over by the district. Since a drainage district is a "municipal corporation," etc.

"One of the Supervisors of Valley Drainage District asked me today to inquire of you for the Supervisors of this district whether the district would be liable for state and county taxes on land which they will most certainly have to take over in the next few weeks because of delinquent taxes and on which land state and county taxes are delinquent now.

"In other words, the Supervisors want to know whether, in suing for delinquent drainage taxes and having the land sold for such drainage taxes and having to buy in the land for the district, they are chargeable with delinquent state and county taxes.

"The letter written from your office and referred to above was dated Dec. 29, 1933, and addressed to W. O. Jackson, Attorney at Butler, Missouri. It seems to me that Attorney General Gilbert Lamb is the one who sent that letter construing this drainage law in regard to state and county taxes."

On December 29, 1933, this Department issued an opinion to Mr. W. O. Jackson, Prosecuting Attorney at Butler,

Missouri to the effect that the drainage district did not have to pay taxes on land while it was owned and held by them for the reason that under Section 9743, R. S. Mo. 1929, the properties of a municipal corporation are exempt from taxation, and a drainage district is a municipal corporation under Section 6 of Article X of the Constitution of Missouri.

We also ruled in that opinion that if there were delinquent state, county, school and road taxes against the land at the time it was acquired by the drainage district, the drainage district took the land subject to the prior lien of those taxes. Section 10764, R. S. Mo. 1929, among other things, provides:

"All drainage taxes provided for in this article, together with all penalties for default in payment of the same, all costs in collecting the same, including a reasonable attorney's fee, to be fixed by the court and taxed as costs in the action brought to enforce payment, shall, from date of filing the certificate hereinafter described in the office of the recorder of deeds for the county wherein the lands and properties are situate, until paid, constitute a lien, to which only the lien of the state for general state, county, school and road taxes shall be paramount, upon all the lands and other property against which such taxes shall be levied,\*\*\*\*."

In answer to your letter, therefore, it is our opinion that if it becomes necessary for your drainage district to take over land for the district on which there are delinquent state, county, school and road taxes, the district takes the land subject to the paramount lien of those taxes, and unless those taxes are discharged by the district the political subdivision involved might, by proper proceedings, enforce its lien against the land in question.

Very truly yours,

FRANK W. HAYES,  
Assistant Attorney General.

APPROVED:

*Carroll R. Hunt*

(ACTING)

Attorney General.