

TAXATION AND REVENUE:
CITIES OF THE THIRD CLASS.

Procedure for collection of delinquent
city real estate taxes in cities of
the third class.

April 4, 1935.



Hon. Geo. N. Blossom
City Collector
Brookfield, Missouri

Dear Mr. Blossom:

Acknowledgment is herewith made of your request of recent date for an opinion of this office on the following subject:

"In reference to the collection of delinquent taxes, will you please advise me the proper procedure for Brookfield, a city of the third class. Please give me your opinion in detail so that no mistake will be made.

Should the expenses of the sale, such as commission, and advertising be charged against the property in addition to the delinquent taxes? Is it necessary for a city of the third class to make up a tax book as the county does?"

The collection of city taxes for cities of the third class is provided for in Article IV, Chapter 38, R. S. Mo. 1929. We shall assume that the city of Brookfield does not operate under a special charter but is governed by the provisions of this article. In respect to the collection of delinquent city taxes, Section 6781 R. S. Mo. 1929, a part of Article IV of Chapter 38 provides as follows:

"Sec.6781. Collector, duties of--delinquent taxes, etc.--* * * * The city council shall cause the land and lot delinquent list and the personal delinquent list to be returned to the city collector who shall be charged therewith, and who shall proceed to collect the same in the same manner and under the same regulations as are or may be provided by law for the collection of delinquent lists of real and personal taxes for state and county purposes: Provided, that all suits for the collection of city taxes shall be brought in the name of the state, at the relation and to the use of the city collector."

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The foregoing section makes it mandatory upon you as city collector to make out as soon as possible after the first meeting of the City Council in April of each year, lists of delinquent taxes remaining due and uncollected for that year. One list is to be made for delinquent real estate taxes designated as the "land and lot delinquent list" and the other list is to be known as the "personal delinquent list", and which is composed of delinquent personal taxes. After examining this list the City Council returns the same to you and you are required to

"proceed to collect the same in the same manner and under the same regulations as are or may be provided by law for the collection of delinquent lists of real and personal property for state and county purposes."

Prior to the enactment of Senate Bill 94, page 425, Laws of Missouri 1933, state and county real estate and personal taxes were collected by suit brought by an attorney appointed by the County Collector, the appointment of whom was approved by the county court. By virtue of Section 6781 the City Collector proceeded to collect delinquent real estate and personal city taxes in the same manner.

With the enactment of Senate Bill 94 however, this entire procedure was changed in respect to the collection of real estate taxes and a new system inaugurated eliminating the bringing of suit and the employment of a counsel for such purpose. As this new system has been adopted for the collection of state and county real estate taxes this new system must be followed for the enforcement of the collection of delinquent city real estate taxes.

While it will be possible to roughly outline the principal steps in the procedure adopted for the collection of delinquent real estate taxes, we shall only be able to pass upon the salient features of the law and suggest that you obtain a copy of the Session Acts of 1933 and study this new act carefully, beginning on page 425 of such Acts.

Section 9952, page 429, provides for the making of a list of delinquent lands and lots, describing such lands and lots as described on the tax books, charging them with the delinquent tax, naming the year delinquent, separately stated, and in addition thereto a penalty of ten per cent per annum on taxes for each year delinquent, but not more than one per cent per month for the delinquent taxes for the preceeding year. This list will be sufficient to satisfy the requirements of Senate Bill 94 and also Section 6781, R. S. Mo. 1929.

Under the provisions of Section 9952a, page 430, it is provided that the lands and lots on the delinquent list shall be subject to sale on the first Monday of November of each year.

Section 9952b provides that a copy of said delinquent lands and lists shall be published in some newspaper of general circulation published in the county for three consecutive weeks, one insertion weekly before such sale, the last insertion to be at least fifteen days prior to the first Monday in November. It is suggested that the last publication of this notice occur between sixteen and thirty days before the first Monday of November at which the sale is to be held. The publication shall contain the aggregate amount of taxes, penalties, interests and costs due thereon, each year separately stated. The land to be described in forty acre tracts or other legal subdivisions, and the town lots to be described by lot number, block, addition etc. With such list there shall be attached to and printed in like manner a notice that so much of said lands and lots as may be necessary to discharge the taxes, interests and charges that may be due thereon at the time of sale, will be sold at public auction at the court house door of such county on the first Monday in November next thereafter, commencing at ten o'clock of said day and continuing from day to day thereafter until all are offered. You should on or before the day of the sale, place on your record a copy of such notice and certify on such record immediately following such notice the name of the newspaper of the county in which such notice was printed and published, and the date of insertions of such notice. The cost of printing the notice shall be paid by the purchaser of the lot and shall not exceed the rate fixed by the county printing contract but in no event to exceed the legal rate fixed by Section 13773 R. S. Mo. 1929. The total cost of the printing of the notice is to be prorated against all the lands and lots advertised, and that proportionate share assessed as costs and collected from the party purchasing the certificate or redeeming the property. The land shall be sold to the bidder offering the amount due for the smallest part of the tract or lot; Section 9952c. No sale shall be consummated for less than the amount of taxes, penalties, interest and costs. If sufficient bid is not obtained the first sale the land should again be advertised the following year and if sufficient is not then received the land should be advertised the next year and sold for what it will bring; Sections 9953 and 9953a. In the event sufficient sum is bid to cover all costs and penalties, interests and taxes on a part of the land, such part only shall be offered and sold; Section 9952d.

The purchaser at the sale is to receive a "certificate of purchase" stating the amount of taxes, penalties, interest and costs due, the sum bid on the tract, the interest which the certificate is to bear, Section 9953d. The owner has two years from the day of the sale within which to redeem the property by paying the amount of the certificate of purchase with interest at the rate specified in the certificate, together with the cost of the sale, and all subsequent taxes paid by the purchaser of the certificate with interest on such sums at eight per cent per annum. Undivided or specific shares of tracts or lots may be redeemed, Section 9956a. If no redemption is made within two years the purchaser is entitled to a deed to the tract, Section 9957; as prescribed by Section 9957a. You are to keep a record of all tracts sold, containing a brief description of the land conveyed on sales for taxes, the name of the person charged therewith, the date of the sale, the name of the purchaser, the amount for which it is sold, the name of the grantee in the deed and the date of its execution, Section 9958. The State Tax Commission is required to prescribe the forms of all certificates, blanks and books required by the act, Section 9960d. If in your opinion it is advisable to charge the tax on personal property against real property in order to insure the collection of the tax you may do so, Section 9962. This new law applies to all taxes delinquent on the date of its effectiveness and all taxes which subsequently became delinquent, and you may if you so desire dismiss any suits which have been brought for the collection of taxes prior to the effective date of this act and proceed to collect the taxes by virtue of the new law, Section 9962d.

In respect to Collector's commission and advertising costs, Section 9969 provides:

"Fees shall be allowed for services rendered under the provisions of this article, as follows: To the collector, except in such cities, two per cent on all sums collected; in such cities, two percent on all sums collected--such per cent to be taxed as cost and collected from the party redeeming. To the county collector, for recording the list of delinquent land and lots, twenty-five cents per tract, to be taxed as cost and collected from the party redeeming such tract."

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Section 9952b referring to the cost of advertising provides in part:

" * * * which cost of printing at the rate specified shall be taxed as part of the costs of the sale of any land or lot contained in such list and disposed of at such sale, and the total cost of printing such notice shall be prorated against all lands or lots so sold or redeemed prior to any such sale."

It therefore appears that your commission and the cost of advertising are proper charges as costs to be charged against the property in addition to the delinquent taxes.

We have heretofore quoted Section 6781 R. S. Mo. 1929 relative to your duties as City Collector to proceed to collect delinquent city taxes in the same manner as delinquent State and County taxes are collected. Before the enactment of Senate Bill 94 you were required to make up the land and lot delinquent list. Under the new law you are to follow the procedure prescribed for collecting State and County taxes, which requires that you make up a land and lot delinquent list under the provisions of Section 9952, page 429, Laws of Missouri 1933. Therefore, you are required under the new law to make up a list of delinquent lands and lots containing delinquent city taxes, as the County Collector is required to make a delinquent list of lands and lots respecting delinquent State and County taxes.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK,
Attorney General

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