

ROAD DISTRICTS:— Where land is removed from one district and attached to another, the question as to which district taxes are payable for any year is determined by the fact as to which district the land was a part of at the time the levy was made.

February 6, 1935.



Mr. Elliott M. Dampf,  
Prosecuting Attorney of Cole County,  
Jefferson City, Missouri.

Dear Sir:

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

"On February 20th, 1934, you advised me by opinion that the County Court could dissolve part of one road district, and that another special road district could take in that part dissolved by the said County Court.

"Would appreciate your advice now as to whether the part of the special road district that was dissolved, should pay their taxes for 1934 to the old district, or to the one that they were taken in."

You state that a part of one road district was removed from district called A, for convenience, and attached to district called B, for convenience, and inquire whether or not the taxes for 1934 on the land in question shall be payable to district A or district B.

It is a matter of common knowledge, of course, that the assessment of the land in question for the taxes for 1934 is made on June 1, 1933. That assessment is for the purpose of determining the valuation of the property upon which the levy is afterwards made. The levy is made after the assessment has been made and, according to Section 8067, R. S. Mo. 1929, the levy for the district in question is made as follows:

"The board of commissioners of any district so incorporated shall have power to levy, for the construction and maintenance of bridges and culverts in the district, and working, repairing and dragging roads in the district, general taxes on property taxable in the district, and shall also have power and authority

and be its duty to levy special taxes for the purpose of paying the interest on bonds when it falls due and to create a sinking fund sufficient to pay the principal of such bonds at maturity; and, whenever such commissioners shall, at any time between the first day of January and the first day of March of any year, file with the clerk of the county court a written statement that they have levied such tax, and stating the amount of the levy for each hundred dollars assessed valuation, the county clerk, in making out the tax books for such year shall charge all property taxable in such district with such tax, and such tax shall be collected as county taxes are collected. Whenever it shall be made to appear to the state auditor that the board of commissioners has failed or neglected to comply with this section in making provision for the payment of interest on and the principal of bonds issued it shall be the duty of the state auditor, on or before the first day of May, to perform and discharge the duties of the board of commissioners in so far as it is its duty to levy special taxes for the purpose of paying the interest on and the principal of bonds issued."

As we view the situation, it is not the time of making the assessment or valuation that determines to whom the taxes are due, but the taxes are to be determined by where the land is located at the time that the levy is made. The levy made by the district is the act which creates the indebtedness between the individual property owner and the district.

You do not state in your inquiry the time that the land in question was lost by the old district and acquired by the new district. Such fact being unknown, in order to solve your problem you must determine to which district the land belonged at the time the levy was actually made. If the land was part of district A at the time the levy was made by district A, then it is our opinion that the taxes for 1934 are payable to the old district. On the other hand, if the land in question was a part of district B at the time the levy was made by district B, then we conclude that the taxes for 1934 are payable to district B.

It is our opinion, therefore, that the answer to your inquiry depends upon the fact as to whether or not the land in question was a part of district A or district B at the time that the levy for the 1934 taxes was actually made. IF it was a part of district A at the time of the actual levy, then we are of the opinion that the taxes go for the benefit of district A. On the other hand, if the land in question had been incorporated into and was a part of district B at the time that the levy was made for the 1934 taxes by district B, then the taxes on the land in question are payable to district B, or the new district.

Very truly yours,

FRANK W. HAYES,  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK,  
Attorney General.

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