

PUBLICATION--TAX: Interpretation of the Law of 1935, page 403, Section 9952b, relating to publication of delinquent tax list.

October 9, 1935.

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Honorable C. W. Keller, Secretary
Missouri Press Association
Columbia, Missouri



Dear Sir:

Answering your request for an opinion dated September 17, 1935, as contained in the several exhibits attached to your letter, we take it that your request is as follows:

"(1) How is the publisher of the 1935 delinquent tax list to be paid under the Laws of 1935? That is to say: Where land published in 1934, under the existing law, was not sold pursuant to said publication and is readvertised under the Laws of 1935, is the publisher to make his charge under the old law or under the Laws of 1935? Under the old law the publication was properly charged to the purchaser at the tax sale.

"(2) Under the 1935 law, who does the publisher bill for costs of publication, and how is the bill to be legally computed as a proper charge? Does each delinquent year require publication of a separate description of the same tract, or does the law contemplate publication of one description, stating the several years delinquency back to and including five years delinquency, and striking a grand total of delinquency.

"(3) Under the 1935 Law, can the delinquent tax list be divided into several township delinquent tax lists and several newspapers in the county legally publish that part of the delinquent tax list, which pertains to township land in or contiguous to the township where the several newspapers are published."

The present law relating to publication of delinquent tax lists is found in the law of 1935, page 403, Section 9952b.

"The county collector shall cause a copy of such list of delinquent lands and lots to be printed in some newspaper of general circulation and 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. And it shall only be necessary in the printed and published list to state in the aggregate the amount of taxes, penalty, interest and cost due thereon, each year separately stated, and the land therein described shall be described in forty-acre tracts or other legal subdivision, and the lots shall be described by number, block, addition, etc.; provided, however, that if a part or parts of any forty-acre tract or other legal subdivision or lot is assessed on the tax books to two or more parties as owners thereof, then, as to such land or lots, such list shall be so prepared and separated. To such list shall be attached and in like manner so printed and published a notice that so much of said lands and lots as may be necessary to discharge the taxes, interest and charges which may be due thereon at the time of sale will be sold at public auction at the courthouse 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. The county collector shall, on or before the day of sale, insert at the foot of such list on his record a copy of such notice and certify

on said record immediately following such notice the name of the newspaper of the county in which such notice was printed and published and the dates of insertions of such notice in such newspaper. The expense of such printing shall be paid out of the county treasury and shall not exceed the rate fixed in the county printing contract, if any, but in no event to exceed one dollar for each description, which cost of printing at the rate paid by the county shall be taxed as part of the costs of the sale of any land or lot contained in such list."

CONCLUSION.

Answering your first question: We are of the opinion that under the now existing law it is the duty of the County Collector to publish the delinquent tax list in some newspaper of general circulation. Charge for publication made in 1934 is properly charged against the purchaser who purchased pursuant to said publication, but where no purchase was made no legal charge for that publication can be made against the county.

The 1935 law contemplated a yearly publication of delinquent lands and lots. Lands and lots not sold in prior years must be annually republished, including delinquencies which are not outlawed. The fact that some lands and lots happen to be readvertised annually, yet the advertisement is to be paid annually, the same as on land advertised for the first time. Under the new law the expense of advertising is henceforth payable out of the County Treasury. The publisher of the list who is authorized by the County Collector is to limit his charge not to exceed the rate fixed in the county printing contract in those counties which have let a county printing contract. The charge, in no event, can be more than \$1.00 per description per tract, the county printing contract to the contrary notwithstanding. The charge may be less than the charge of the county printing contract, but not more. If the cost of printing the description, when measured by the rate of the county printing contract, is less than \$1.00, then the cost as so measured shall be the charge against that tract.

Hon. C. W. Keller

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Answering your second question: The law contemplates publication of one description to include all land assessed wholly to any one delinquent person, and when two or more persons have been assessed and become delinquent for the same land, then the list is to describe the said land separate from individually owned land, even though some of the owners be delinquent in land on which they were assessed as sole owners. After the legal description of said land or lots the published list is to itemize the yearly delinquency on the thus described land for five previous years, and is to show the sum of the total delinquency. Formality as to size of type, style or form, is not provided for in the law. The publisher is to bill the County for the charge of publication of the delinquent tax list, and it should be paid as other charges against a county are paid.

Answering your third question: The law allowing publication of delinquent tax list does not contemplate that the list be divided into township delinquent tax lists so that several newspapers in the County can publish and be paid severally for that part of the delinquent tax list which pertains to township land in or contiguous to townships where the several newspapers are published.

Respectfully submitted

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APPROVED:

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(Acting) Attorney General.

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