

TAXATION: Duty of City Collector to make up delinquent lists of lands and lots.

CITIES OF THE THIRD CLASS)

December 14, 1935. 12-16



Honorable J. T. Rice
City Collector
Hannibal, Missouri

Dear Mr. Rice:

Acknowledgment is herewith made of your communication of December 7, 1935, requesting an opinion of this office on the following matter:

"There are various opinions among the officials of our City as to whether it is the duty of the City Collector or City Clerk to make the Back Tax Book, the legislative acts of 1933 and 1935 covering this matter seems confusing to many. May I have a ruling from your office to clear up this matter."

Collection of delinquent taxes due cities of the third class is provided for by Section 6781 R. S. Missouri 1929. This Section provides in part as follows:

"It shall be the duty of the council to require the collector annually, on the first meeting of the council in April of each year, or as soon thereafter as may be, to make out, under oath, lists of delinquent taxes remaining due and uncollected for each year, to be known as the 'land and lot delinquent list' and the 'personal delinquent list.' * * * *
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* * * *".

There can be no doubt but that under the foregoing Section it is the duty of the City Collector to make up the list of delinquent lands and lots and that the City Clerk is charged with no duty in respect to the same. Insofar as the Jones-Munger Act is concerned, referred to in your communication as the Legislative Act of 1933, Section 9952, page 429, Laws of Missouri 1933, provides in part:

"Between the first of January and the first of July in the year 1934 and annually thereafter, and immediately upon the effective date of this act, the county collector shall make out and record in a book to be provided for that purpose, a list of lands and lots, returned and remaining delinquent for taxes, * * * *"

I presume your confusion in respect to the applicability of this question has arisen because of the provisions of Section 9963c, page 448, Laws of Missouri 1933, which section provides in part:

"* * * *Where applicable the word 'county' as used in this act shall be construed 'City' and the words 'county clerk' shall be construed 'city clerk' or other proper officer."

However, because of the fact that Section 9952 above referred to lays the duty of preparing a list of delinquent lands and lots directly upon the collector rather than on the Clerk, as provided for in the former law, there should be no confusion arise because of the provisions of these two separate laws. While it has been our view that in case of a conflict the provisions of Section 6781 should prevail over the provisions of the Jones-Munger Law, yet there appears to be no conflict whatsoever in respect to the instant problem.

Honorable J. T. Rice.

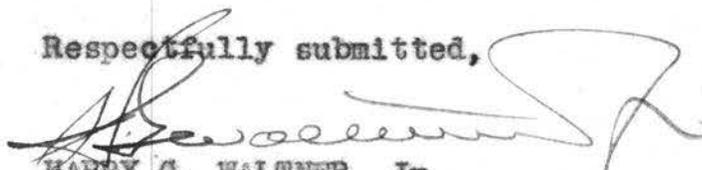
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December 14, 1935.

CONCLUSION.

It is therefore the opinion of this office that it is the duty of the City Collector to prepare the list of delinquent lands and lots and that such duty does not rest upon the City Clerk.

Respectfully submitted,



HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General

HGW:MM