

TAXATION: County Court cannot compromise delinquent taxes
owed a City of the Fourth Class.

9-26

September 25, 1935.



Mr. Huldah C. Storey
City Collector
Senath, Missouri

Dear Sir:

This will acknowledge receipt of your request for
an opinion which reads as follows:

"Will you kindly advise whether or not
the Board of Aldermen or myself as city
collector are required by law to reduce
or compromise city taxes when the Court
has compromised. In other words after
the board of equalization has acted and
our city tax list is made up from the
county records, and said taxes have be-
come delinquent, taxpayer then proceeds
to the county court and obtains a com-
promise, certified by the State Auditor,
is the city bound by the action of the
county court and required to accept city
taxes on the same basis as the compromise
figure set by the court."

Senath being a city of the fourth class we quote the
statutes applicable to said cities, which we deem necessary
to answer your question.

Section 6894 R. S. Missouri 1929, provides in part:

"In assessing property, both real and
personal, in cities of the fourth class,
the city assessor shall jointly, with
the county assessor, assess all property
in such cities, and such assessment, as
made by the city assessor and county
assessor jointly and after the same has
been passed upon by the board of equali-
zation, shall be taken as a basis from

which the board of aldermen shall make the levy for city purposes. The assessment of the city property, as made by the city and county assessor, shall conform to each other, and after such board of equalization has passed upon such assessment and equalized the same, the city assessor's books shall be corrected in red ink in accordance with the changes made by the board of equalization, and so certified by said board, and then returned to the board of aldermen:" * * * "A lien is hereby created in favor of such city against any lot or lots or tract of land for any such tract assessed by such city against the same, which said lien shall be superior to all other liens or encumbrances except the lien of the state for state, county or school taxes."

In the above section it is plain that the assessment of city property made by the city assessor must conform to the assessment made by the county assessor as equalized by the board of equalization. After the property has been so assessed and equalized, a lien is created in favor of the city against the lands so assessed, which is superior to all other liens except the lien of the State for state, county and school taxes.

Sections 6995 and 6996 R. S. Missouri 1929, provide for the collection of delinquent taxes in cities of the fourth class.

Section 6995 reads as follows:

"Upon the first day of January of each year all unpaid city taxes shall become delinquent, and the taxes upon real property are hereby made a lien thereon. The enforcement of all taxes authorized by this article shall be made in the same manner and under the same rules and regulations as are or may be provided by law for the collection and enforcement of the payment of state and county taxes, including the seizure and sale of goods and chattels, both before and after said taxes shall become delinquent: 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."

Section 6896 provides:

"It shall be the duty of the board of aldermen to require the collector, annually, on the first meeting of the board of aldermen 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.' It shall be the duty of the board of aldermen, at the meeting at which said delinquent list shall be returned, or as soon as may be thereafter, to carefully examine the same; and if it shall appear that all property and taxes contained in said lists are properly returned as delinquent, the board of aldermen shall approve the same and cause a record thereof to be entered on the journal, and cause the amount thereof to be credited to the account of the city collector. The board of aldermen 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."

This Department in an opinion rendered to the State Tax Commission under date of August 8, 1933, in passing upon the question of whether delinquent taxes of a city of the fourth class were to be collected by the city collector or by the county collector under the provisions of Senate Bill 94 as found on pages 425 to 449, Laws of Missouri 1933, ruled as follows:

"It is therefore the opinion of the office that Senate Bill 94 is applicable to Cities of the Third and Fourth Classes insofar as it prescribes the method and manner of the collection and enforcement of the payment of the taxes, but any proceedings had relating thereto are to be conducted by the city collector consistent with the requirements of Articles 4 and 8 of Chapter 38, 1929 Revision."

From the above it is clear that after the city taxes have been assessed in conformity to the state assessment that such city assessment is a lien against the property so assessed and it is the duty of the city collector and not the county collector to collect the delinquent taxes of a city of the fourth class.

The authority of the County Court to compromise back taxes is found in Section 9950 Laws of Missouri 1933, page 427, which reads as follows:

"Whenever it shall appear to any county court, or if in such cities the register, city clerk or other proper officer, that any tract of land or town lot contained in said 'back tax book' or recorded list of delinquent land and lots in the collector's office is not worth the amount of taxes, interest and cost due thereon, as charged in said 'back tax book' or recorded list of delinquent land and lots in the collector's office, or that the same would not sell for the amount of such taxes, interest and cost, it shall be lawful for the said court, or if in

such cities the register, city clerk or other proper officer, to compromise said taxes with the owner of said tract or lot, and upon payment to the collector of the amount agreed upon, a certificate of redemption shall be issued under the seal of the court or other proper officer, which shall have the effect to release said lands from the lien of the state and all taxes due thereon, as charged on said 'back tax book' or recorded list of delinquent land and lots in the collector's office; and in case said court or other proper officer shall compromise and accept a less amount than shall appear to be due on any tract of land or town lot, as charged on said 'back tax book' or recorded list of delinquent land and lots in the collector's office, it shall be the duty of said court or other proper officer to order the amount so paid to be distributed to the various funds to which said taxes are due, in proportion as the amount received bears to the whole amount charged against such tract or lot."

The term "such cities" as used in the above section, refers to the cities described in Section 9970 Laws of Missouri 1933, page 451, which reads as follows:

"The collectors of all cities and incorporated towns having authority to levy and collect taxes under their respective charters or under any law of this state shall, on or before the first Monday in March, annually, return to the county collector a list of lands and lots on which the taxes or special assessments levied by such city or incorporated town remain due and unpaid. The county collector shall receipt for the aggregate amount of such delinquent taxes, which receipt shall be held by the treasurer

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of the city or town, and shall stand as evidence of indebtedness upon the part of the county collector and his bondsmen to such city or town, until settlement in full has been made by payment to said treasurer or his successor of all taxes thus receipted for, or by a return of such part as is uncollectible."

This office in an opinion rendered to Minor C. Livesay, Prosecuting Attorney, Versailles, Missouri, under date of June 27, 1933, ruled that the above section does not govern the collection of delinquent taxes by a city of the fourth class. It should be noted that the power of a county court to compromise back taxes under Section 9950 supra, only refers to taxes found on the back tax book or recorded lists of delinquent lands and lots in the county collector's office. As the delinquent tax lists of cities of the fourth class are not found on said collector's tax book or delinquent land and lot lists, Section 9950 supra does not give the county court the right to compromise back taxes of a city of the fourth class.

CONCLUSION.

In view of the above it is the opinion of this Department that a County Court has no power to compromise delinquent taxes owed a city of the fourth class, and that such city is not bound by any compromise made by said court

Respectfully submitted,

J. E. TAYLOR,
Assistant Attorney General

APPROVED:

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

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