

TAXATION: Fees and costs on delinquent taxes; contents of back tax book, seizure of personal property for taxes.

October 2, 1935. 10-17



Honorable T. S. Swicegood  
County Collector  
Hickory County  
Hermitage, Missouri

Dear Sir:

Sometime ago this office received your request for an opinion reading as follows:

"Find enclosed example of delinquent tax 1930 to 1934, inclusive. Will appreciate the proper interest cost and fees inserted as we should collect.

Also will appreciate information regarding extension of interest fees and costs at time of making Back Tax Book, whether it should be or not.

Also, how soon is it lawful to sell land after it becomes delinquent?

Can a collector have personal property seized and sold for personal tax?"

I.

PROPER INTEREST, COSTS  
AND FEES ON DELINQUENT  
TAXES.

The 57th General Assembly enacted a new law for the collection of delinquent taxes, substantially changing the fees allowable on delinquent taxes. This tax law is found at page 425 et seq. Laws of Missouri 1933.

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In the memorandum attached to your communication you have asked for the calculation of costs, interest and penalties on a 1930 tax bill. We assume that you mean such a tax bill as would be delinquent January 1, 1931, and the following schedule treats first a 1930 tax bill delinquent January 1, 1931, the second a 1931 tax bill delinquent January 1, 1932, third, a 1932 tax bill delinquent January 1, 1933, fourth, a 1933 tax bill delinquent January 1, 1934, fifth, a 1934 tax bill delinquent January 1, 1935. The penalties have been calculated on the basis of a payment of the taxes during the month of October and before any costs of advertising or sale have been incurred. The schedule as above referred to is as follows:

## I.

		Int. 10%	Fees Co. Clks	Fees Co. Coll.	Comm. Co. Coll.
1930 tax	\$70.18	7.02	1931 25 1932 10 1933 1934 5 1935 5	25 10	2% of tax and interest \$1.54

## II.

1931 tax	70.18	7.02	1932 25 1933 10 1934 5 1935 5	25 10	2% of tax and interest \$1.54
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## III.

1932 tax	70.18	7.02	1933 25 1934 5 1935 5	25 10	2% of tax and interest \$1.54.
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## IV.

1933 tax	70.18	7.02	1934 5 1935 5	25 10	2% \$1.54
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## V.

1934 tax	70.18	7.02	1935 5	25	2% \$1.54
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It is to be noted that interest on these delinquent taxes are all the same, to-wit, 10%. This is brought about by reason of the enactment of Senate Bill 143 of the 58th General Assembly found at page 408, Laws of Missouri 1935.

The next item is the County clerks fees in the case of a 1930 tax bill delinquent January 1, 1931. The County collector's fees for 1931 and 1932 are governed by the provisions of Sections 9945 and 9969 R. S. Missouri 1929, while the county clerks fees on such taxes for 1934 and 1935 are governed by the provisions of Section 9945, page 426, Laws of Missouri 1933. As no delinquent list was made under the provisions of the new law in 1933, the county clerk is entitled to no fee during that year. The county collectors fees which are dealt with in the next column are as provided for in Sections 9969, page 429, Laws of Missouri 1933, and 9945, page 426, Laws of Missouri 1933, and apply only for the years 1934 and 1935. The county collectors commission dealt with in the next column is calculated at 2% of the sums collected as provided for in Section 9969, page 429, Laws of Missouri 1933. This 2% is to be calculated upon the amount of tax and interest collected and is therefore variable depending upon the amount of interest due and collected.

## II.

### FEES AND COSTS NOT REQUIRED TO BE PUT IN LISTS OF LANDS AND LOTS AT THE TIME OF MAKING.

Section 9952, page 429, Laws of Missouri 1933, provides for the making up of delinquent lists of lands and lots each year between the first of January and first of July. This section in part provides for

"a list of lands and lots, returned and remaining delinquent for taxes\* \* \* describing such lands and lots\* \* \* and charging them with the amount of delinquent tax and naming the years delinquent, separately stated, and in addition thereto a penalty of ten per centum on such tax delinquent for the preceding year and an additional annual ten per centum on taxes for each year\* \* \* provided however, if taxes are paid on land or lots delinquent

for the preceding year at any time prior to sale thereof as in this act provided, the per centum of penalty added shall not exceed one per centum per month or fractional part thereof or ten per centum annually."

The aforementioned section has been modified by Senate Bill 143 of the 58th General Assembly hereinbefore referred to so that all delinquent taxes are to be treated as though they were taxes for the year 1934 insofar as the collection of penalty interest is concerned. No provision is made in this Section requiring that the costs, fees and commissions be placed on the delinquent lists of lands and lots at the time it is made up. However, it would appear that there is no prohibition against placing such items in the delinquent tax lists and if from an administrative view point it is desirable that such be done at the time the list is made, such acts would not be violative of the law.

### III.

#### CERTIFICATES MAY BE SOLD THE NOVEMBER FOLLOWING THE DELIN- QUENCY OF THE TAX.

Section 9952a, page 430, Laws of Missouri 1933 provides:

"All lands and lots on which taxes are delinquent and unpaid shall be subject to sale to discharge the lien for said delinquent and unpaid taxes as provided for in this act on the first Monday of November of each year, \* \* \*"

Section 9952b, page 403, Laws of Missouri 1933, provides for the advertising of such lands prior to the date of sale. Therefore, certificates of delinquent taxes may be sold the November following the date of delinquency of the taxes. In other words, lands upon which taxes are delinquent for the year 1934 cannot be sold for such delinquent taxes prior to November of 1935.

### IV.

#### THE COLLECTOR MAY SEIZE AND SELL PERSONAL PROPERTY FOR PERSONAL TAXES.

The law herein referred to known as the Jones-Munger Act applies only to the enforcement of the payment of taxes on real estate. The law respecting the collection of personal taxes is substantially the same as before the adoption of this act in 1933.

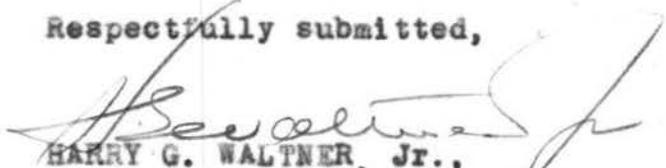
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Section 9915 R. S. Missouri 1929, specifically authorizes the seizure and sale of personal property for personal taxes. This section among other things provides:

"The collector shall diligently endeavor and use all lawful means to collect all taxes which they are required to collect in their respective counties, and to that end they shall have the power to seize and sell the goods and chattels of the person liable for taxes, in the same manner as goods and chattels ~~are~~ or may be required to be seized and sold under execution issued on judgments at law, and no property whatever shall be exempt from seizure and sale for taxes due on lands or personal property: Provided, that no such seizure or sale for taxes shall be made until after the first day of October of each year,\* \* \* \* \*"

This statutory procedure has been unaffected by the recent changes in law hereinbefore referred to, and specifically authorizes the seizure and sale of personal property for personal taxes.

Respectfully submitted,

  
HARRY G. WALTNER, Jr.,  
Assistant Attorney General

APPROVED:

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

HGW:MM