

TAXATION AND REVENUE:) Owner of land has two years in which to
DELINQUENT LAND SALES:) redeem; if last day falls on Sunday,
following Monday is in time.

November 17, 1936.

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Mr. B. P. Burnham
Collector of the Revenue
Iron County
Ironton, Missouri

Dear Mr. Burnham:

This is to acknowledge your letter of November 13, in which you request our opinion on the question therein submitted. Your letter is as follows:

"We are up against a situation here relative to issuing a deed on a tax certificate, and the Collector Mr. Hall would like to have your opinion on the matter.

"A party purchased a tax certificate on November 8th, 1934 and if you will note that November the 8th this year fell on Sunday so the morning of the 9th at nine o'clock A. M. the party that owned the land came in and tendered the money to redeem the land, contending that Sunday would not count as the date of expiration fell on Sunday therefore he could not redeem until the office opened on the morning of the ninth.

"The man that holds the certificate contends that the owner of the land lost his right by not redeeming on or before the 8th the day of expiration of the date of the Certificate.

"You will note that Sec. 9956a 1933 Session Acts says that 'may redeem the

same at any time during the two years next ensuing' The question is when did the two years end on the 8th or the 9th in some instruments we find that Sunday does not count in others it does. What is your opinion on this matter."

Your question pertains to the sale of lands sold for delinquent taxes under the provisions of Laws of Missouri, 1933, at page 425 et seq. Section 9952a of said laws provides in part as follows:

"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 9952c provides in part as follows:

"On the day mentioned in the notice, the county collector shall commence the sale of such lands, and shall continue the same from day to day until so much of each parcel assessed or belonging to each person assessed, shall be sold as will pay the taxes, interest and charges thereon * * * * *."

Section 9956a sets forth in what manner and how lands sold as aforesaid may be redeemed, and provides in part:

"The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the two years next ensuing, in the following manner: * * * * *"

It will therefore be seen that a person may redeem the land so sold during the two years next ensuing. We think

that the person so redeeming has two full years from the time of the sale.

You state in your letter that a party purchased a tax certificate on November 8, 1934, and that November 8 this year fell on Sunday. Your question is whether the person who desires to redeem may redeem same on Monday, November 9, following Sunday November 8. Two years would, under ordinary circumstances, be up on November 8.

The fourth subdivision of Section 655, R. S. Mo. 1929, 7 Missouri Ann. Stat. page 4899, relative to the construction of statutes, reads as follows:

"fourth, the time within which an act is to be done shall be computed by excluding the first day and including the last, if the last day be Sunday it shall be excluded."

This part of Section 655, supra, has been construed many times by the courts of our State.

In the case of *Keys v. Keys*, 217 Mo., 1. c. 64, following the case of *Bank v. Williams*, 46 Mo. 17, it is said:

"the statute was construed to mean that if the last day for the performance of an act fell on Sunday, Sunday should be excluded from the computation of the time in which it might be done and that the act might be done on the succeeding Monday. *Bank v. Williams* has been approved and followed in *Cattell v. The Dispatch Publishing Company*, 88 Mo. 356; *State v. Harris*, 121 Mo. 1. c. 447; *Maloney v. Railroad*, 122 Mo. 1. c. 115; *State v. May*, 142 Mo. 135; and in *Evans & Hollinger v. Railroad*, 76 Mo. App. 468."

To the same effect is the case of *Stutz v. Cameron*, 254 Mo. 1. c. 340.

In the case of *The State ex rel. Bulger v. Southern*, 278 Mo. 610, the court held that where the statute requires that

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"the time within which an act is to be done shall be computed by excluding the first day and including the last, if the last day be Sunday it shall be excluded," the last day if it be Sunday is not to be included in computing the time, but is to be excluded from the computation, and the time named ends on the following Monday and not on the preceding Saturday.

And in the case of Spring v. Giefing, 289 S. W. 827, the court said:

"Where the last day within which to do an act falls upon Sunday, then the following Monday is within the time. Bank v. Williams, 46 Mo. 17; Keys v. Keys, 217 Mo. 1. c. 64."

We think that the last mentioned statute and the cases cited above are applicable to the question asked in your letter. The person redeeming the land has two years to redeem and if the last statutory day for redemption falls on Sunday he may redeem on the following Monday.

It is, therefore, our opinion that under the facts, as stated in your letter, the land may be redeemed on Monday, November 9, 1936.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General.

CRH:EG