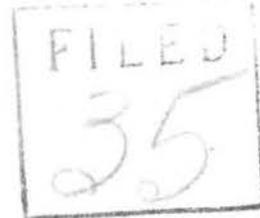


TAXATION: Delinquent taxes bear interest at six per cent
if taxpayer in bankruptcy.

October 17, 1936

10-24



Hon. Joe Grandhomme
Collector of Revenue
St. Francois County
Farmington, Missouri

Dear Mr. Grandhomme:

We are in receipt of a communication from the State Auditor's Office requesting us to render you an opinion on the subject matter of your communication to the State Auditor October 5, 1936. The question presented is "May a bankrupt land owner pay his taxes for the years 1934-35 exempt from the payment of additional interests and penalties which have accrued because of the delinquency of the taxes."

I.

Bankrupt taxpayer liable for
six per cent interest on delin-
quent taxes paid pending
bankruptcy proceedings.

This office had occasion to consider carefully the liability of a railroad in bankruptcy for the payment of penalties upon its delinquent taxes. On March 26, 1935, this office rendered an opinion to the Honorable David R. Clevenger, Prosecuting Attorney of Platte County, wherein the following conclusion was reached:

October 17, 1936.

"It is therefore the opinion of this office that the Trustees of the Chicago, Rock Island and Pacific Railroad Company are liable to the State of Missouri as interest on delinquent taxes six per cent per annum on such taxes from the date of delinquency until paid."

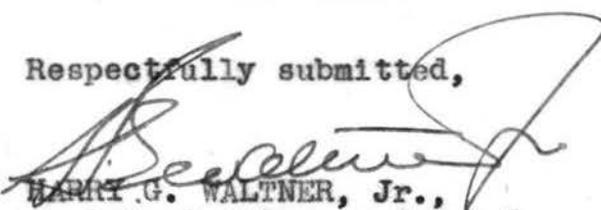
We have considered this opinion in relation to the general tax laws and have reached the conclusion that there is no distinction between the status of a real estate owner in bankruptcy and a railroad organization under Section 77b of the Bankruptcy Law insofar as liability for interest on delinquent taxes is concerned. We herewith enclose to you a copy of that opinion.

CONCLUSION

It is therefore the opinion of this office that the taxpayer is liable for simple interest calculated at six per cent per annum upon delinquent taxes for the years 1934 and 1935 and that the taxpayer is not liable for the ten per cent penalty referred to in Section 9952, page 429, Laws of Missouri 1933.

The foregoing conclusion and opinion upon which it is based is reached upon the assumption that the real estate upon which the bankrupt is attempting to pay the taxes is a part of the bankrupt estate and within the jurisdiction of the bankruptcy court. There is a strong likelihood that the property upon which the taxpayer is seeking to pay taxes has been set aside to him as exempt or that the trustee in bankruptcy has released the property from the estate as having no value to the estate. Under such circumstances there would be no basis for the acceptance of less than the full amount of penalties, interest and costs accrued. These additional facts are not set forth in the inquiry and therefore we are unable to go into this feature of the matter more fully. You will note that the foregoing opinion deals only with penalty interest, and is not to be construed as holding that the bankrupt estate is not liable for the legal costs which have accrued to county officials for services actually performed in the collection of the taxes.

Respectfully submitted,


HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

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

HGW:MM
Enclosure.