

SCHOOLS: Interest collected on delinquent taxes is in effect a part of the tax and should be distributed in proportion to the amount each levy bears to the total.

January 24, 1936.



Mr. George Harrington  
Collector, Revenue Department  
Jackson County  
Court House  
Kansas City, Missouri

Dear Sir:

This is to acknowledge your letter as follows:

"It has been the practice in this county for at least thirty years to divide the interest collected on back taxes between the county, state, Kansas City schools and Independence schools, theirs being the major portion. It being generally understood that the collection of the moneys for the smaller incorporated schools does not pay for itself, their portion of the interest has gone to the county.

"Since taking over the collector's office I have impounded this money and desire an opinion from you so that I may make proper distribution of same."

Section 9867, R. S. Mo. 1929, provides as follows:

"The following named taxes shall hereafter be assessed, levied and collected in the several counties in this state, and only in the manner and not to exceed the rates prescribed by the Constitution and laws of this state, viz: The state

tax and the tax necessary to pay the funded or bonded debt of the state, the funded or bonded debt of the county, the tax for current county expenditures, the taxes certified as necessary by cities, incorporated towns and villages, and for schools."

The county court fixes the rate of taxation for county purposes. Section 9872, R. S. Mo. 1929. The rate for state purposes is fixed by statute. Section 9866, R. S. Mo. 1929. The rate of taxation for school purposes is purely local and set by the voters in the district or the board of directors. Section 9214, R. S. Mo. 1929 and Chapter 57, R. S. Mo. 1929 and amendments.

As to interest on delinquent taxes on real estate, Section 9945, Laws of Missouri, 1933, page 426, provides in part as follows:

"\* \* \*; all taxes hereafter becoming delinquent shall bear interest until paid as provided by section 9952, \* \*"

Section 9952, Laws of Missouri, 1933, page 429, referred to in Section 9945, supra, provides in part as follows:

"\* \* \* and charging them with the amount of delinquent tax \* \* \* and an additional annual ten per centum on taxes for each year prior to the preceding year, \* \* \*"

It is thus seen from a reading of Sections 9945 and 9952, supra, that delinquent taxes on real estate bear interest and is an additional percent on said taxes. In other words, the interest on delinquent taxes is a part of the amount to be collected as same is additional to the tax.

For the convenience of the taxpayer only one tax statement is issued to comply with the provisions of Section 9867, R. S. Mo. 1929. However, on that tax statement the rate of levy is specifically shown, namely, the amount for state purposes, for county purposes and for school purposes, and when a taxpayer receives his statement he only pays the total amount shown on the tax bill and then from that total amount is deducted the various amounts that go to the state, the county and the schools.

When taxes are delinquent the interest is computed on the total amount of the taxes for state, county and schools. Thus, interest is charged on that portion represented by the levy for school purposes and, consequently, should belong to that portion of the tax from whence it was derived.

The reason advanced by you why smaller school districts do not receive that portion of the interest due them, is because it is a smaller amount. However, the principle remains the same, namely, if a part of the tax could be taken all of it could be taken. Hence, if it is right for the interest to be taken from the smaller schools it would be just as right to take the interest from the larger schools and place it all in the county revenue. Thus, the reason assigned is not an excuse, a justification or a right to deprive the smaller schools of any portion of the interest due them on delinquent taxes levied for their districts.

From the above it is our opinion that by virtue of Sections 9945 and 9952, supra, the interest derived from delinquent taxes should be distributed to the state, county and schools in proportion to the amount that said levies bear to the entire tax bill, and no small school should be deprived of its pro rata amount.

Yours very truly,

James L. HornBostel  
Assistant Attorney-General

APPROVED:

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

JLH:EG