

COUNTY TREASURER AND : ) The incoming treasurer and ex officio  
EX OFFICIO COLLECTOR : ) collector must of necessity make up  
the 1937 annual "delinquent land list."

November 21, 1936.



Mr. W. A. Heydenberk  
c/o Tom Carlton  
Treasurer and Ex-officio Collector  
Barton County  
Lamar, Missouri

Dear Sir:

This is to acknowledge your letter as follows:

"When a new treasurer is to take office April 1st, 1937, should he make the delinquent tax books or should the outgoing treasurer make it, and if so, how is he to be paid?"

Barton County has a population of 14,560 inhabitants and has adopted township organization. Official Manual, State of Missouri, 1935-36.

In 1933 the Legislature, regular session, repealed Section 12130, R. S. Mo. 1929, and enacted in lieu thereof a new section known as Section 12130, Laws of Missouri, 1933, page 338, which in part provides as follows:

"On the Tuesday after the first Monday in November, 1936, and every four years thereafter, there shall be elected by the qualified voters \* \* \* in all counties of less than 40,000 inhabitants if under township organization, a county treasurer, who shall be commissioned by the county court of his county \* \* \* \*  
Provided, that in counties having adopted or that shall hereafter adopt township organization, the term of office of said treasurer shall be extended to the first day of April next after the election of his successor."

Section 12312, R. S. Mo. 1929, provides in part as follows:

"The county treasurer of counties having adopted or which may hereafter adopt township organization shall be ex officio collector, and shall have the same power to collect all delinquent personal property taxes \* \* \* \* the delinquent or non-resident lands or town lots, and to prosecute for and make sale thereof, the same that is now or may hereafter be vested in the county collectors under the general laws of this state. The ex officio collector shall, at the time of making his annual settlement in each year, deposit the tax books returned by the township collectors in the office of the county clerk, and within thirty days thereafter the clerk shall make, in a book to be called the 'back tax book,' a correct list, in numerical order, of all tracts of land and town lots which have been returned delinquent by said collectors, and return said list to the ex officio collector, taking his receipt therefor."

While Section 12312, supra, provides that the ex officio collector shall at the time of making his annual settlement deposit tax books returned by the township collectors in the office of the county clerk and requires the county clerk to make a back tax book, yet in view of the law enacted by the 1933 Legislature and known as the Jones-Munger law, we believe that part of Section 12312 that requires the county clerk to make up the back tax books to have been repealed because Section 9963c, Laws of Missouri, 1933, page 448, provides:

"In all counties that have adopted or may hereafter adopt township organization, wherever the word 'collector' is used in this act, as to such counties such

designation shall be construed to mean  
'treasurer and ex-officio collector.'

Section 9952, Laws of Missouri, 1933, page 429, specifically provides that the county collector shall make out and record the delinquent taxes. Said section reads in part as follows:

"Between the first of January and the first of July in the year 1934 and annually thereafter, and immediately upon the effective date of this act, the county collector shall make out and record, in a book to be provided for that purpose, a list of lands and lots, returned and remaining delinquent for taxes, \* \* \* \* \*"

Prior to the enactment of the Jones-Munger law in 1933, the county clerk made up the back tax books but now that duty rests with the county collector. Thus, many provisions of the old statutes, read in the light of the Jones-Munger Act, reveal a conflict. The treasurer and ex officio collector makes an annual settlement the first Monday in March. Sections 12313 and 9918, R. S. Mo. 1929. The township collectors also make an annual and final settlement with the county court the first Monday in March. Section 12323, R. S. Mo. 1929. The Jones-Munger law, Section 9952, supra, requires the treasurer and ex officio collector, between the first of January and first of July to make out the "delinquent land list." As the Jones-Munger Act is the latest statute on the subject it would take precedence over the former statutes relating to making out and recording the "delinquent tax books."

Therefore, it resolves itself into the proposition that the outgoing treasurer and ex officio collector would not have the delinquent township tax books in his possession a sufficient length of time in which to comply with Section 9952, supra, prior to going out of office, due to the time fixed for settlement. Thus, as a matter of practical effect, the incoming treasurer and ex officio collector would have

to make and record the new and annual delinquent land lists for 1937, provided for in Section 9952, supra.

Section 9969, Laws of Missouri, 1933, p. 429, provides the fees for making and recording the list of delinquent lands and lots, and reads in part as follows:

"To the county collector for recording the list of delinquent lands and lots, twenty-five cents per tract, to be taxed as cost and collected from the party redeeming such tract."

From the above it is our opinion that the incoming treasurer and ex officio collector shall make the annual 1937 "delinquent land list." However, we do not wish to be understood in the premises because when the treasurer and ex officio collector makes his settlement he will have to present a list showing what taxes remain delinquent. But, as far as making the permanent "delinquent land list" for 1937, that duty would rest with the incoming treasurer and ex officio collector, because the outgoing treasurer and ex officio collector would not have the means in order to make it, due to the settlement being required in March of township collectors as well as treasurers and ex officio collectors. Sections 12313 and 12323, R. S. Mo. 1929.

Yours very truly,

James L. HornBostel  
Assistant Attorney-General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney-General

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