

TAXATION: Procedure of Collector after third sale--
Four propositions.

11-31
November 25, 1936 .



Honorable Wm. C. Kerckhoff
Collector of Revenue
Jefferson County
Millsboro, Missouri

Dear Sir:

This office is in receipt of your request for an opinion as follows:

"Please pardon me for bothering you again. But I am not clear on the Tax Sales. I am enclosing you one of my tax bills which has been offered for the 3rd time for sale, and I have no bid on it at all. And then I have some which dates back to 1929 where I have only \$1.00 and some \$2.00 bids. Now if there is only a bid for \$1.00 how many years taxes does this pay for? Does it pay down to the year of 1933? Because the 1934 and 1935 was not on the tax bill for the first time of advertising or does it pay for all down to 1935? If so, how many years of this bill do I have to carry on my back tax books in order if the owner should redeem this property within two years. If I have no bid how many years do I leave off of the back tax book next year? Do I leave off of the back tax book next year? Do I leave it all off down to the year of 1935 or only to 1933, because

the 1934 and 1935 was not advertised for the 3rd time? * * * * *

"Now suppose Tom Jones bids for Bill No. 277 like I have enclosed. Will I put on his certificate all years from 1929 to 1935 inclusive, or only to 1933?"

I.

Bid at third sale is for then existing delinquent taxes.

Section 9952, page 429, Laws of Missouri, 1933, provides for the making of the delinquent list of lands and lots which is the basis for the publication provided for in Section 9952b, page 403, Laws of Missouri, 1935. This section calls for a list of lands and lots returned and remaining delinquent for taxes

"describing such lands and lots as the same are described in the tax books * * * and charging them with the amount of delinquent tax, and naming the years delinquent separately stated * * *".

It is quite evident that this list of delinquent lands and lots takes the place of the back tax book and is the warrant to the county collector for the collection of delinquent taxes. Therefore, this list must be complete in that it is to include all taxes which are delinquent. Section 9952b supra, provides in part:

"The county collector shall cause a copy of such list of delinquent lands and lots to be printed. * * *".

thereby further indicating that such list is to include all taxes which are delinquent against any given tract of land. Section

9952c, page 431, Laws of Missouri, 1933, 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 part and parcel assessed or belonging to each person assessed shall be sold as to pay the taxes, interest and charges thereon, or charged to such person in said county. * * *"

You will note that by this provision the certificate of purchase is offered and is to be sold to pay "the taxes, interest and charges thereon," indicating and meaning the total amount of charges which are against the tract of land. However, that section deals solely with the first sale. Section 9953, page 432, refers to the second sale. In the event that no person shall bid the sum equal to the delinquent taxes against the tract at the first sale a recital thereof shall be entered in the sale book and the delinquent lands offered again at the next sale, if they be at that time delinquent. The section then provides:

"If at the second offering for sale no person shall bid thereof a sum equal to then delinquent taxes thereon with interest, penalty and cost, then the clerk of the sale shall note such fact * * * * *"

By this provision, it is definitely indicated that at the second sale the certificate is to be offered for the "then" existing taxes. Section 9953a, page 432, Laws of Missouri, 1933, reads as follows:

"Whenever any lands have been or shall hereafter be offered for sale for delinquent taxes, interest, penalty and costs by the collector of the proper county

for any two successive years and no person shall have bid therefor a sum equal to the delinquent taxes thereon, interest, penalty and costs provided by law, then such county collector shall at the next regular tax sale of lands for delinquent taxes, sell the same to the highest bidder, and the purchaser thereof shall acquire thereby the same interest therein as is acquired by purchasers of other lands at such delinquent tax sales."

Taking into consideration all of these sections, it is quite certain that the intent of the legislature was that upon the third sale the tract would be offered for all of the delinquent taxes "thereon," with interest, penalty and cost provided by law, and that in the event the property did not bring the amount of such taxes, penalty, interest and costs on the third sale the same could be sold for whatever sum the tract would bring.

CONCLUSION

It is therefore the opinion of this office that in the event the tracts of land were offered for the third time this November and the taxes itemized in the advertisement from 1929 until 1935, (a premise assumed from your communication) that the amount bid on such third sale would be for the taxes for all those designated years, and in the event there was no redemption by the property owner, the land and lots would be discharged from such taxes upon full compliance by the purchaser with the other provisions of the law.

II.

Collector to carry balance of taxes on back tax book if property redeemed from third sale.

Your communication is not very definite concerning this question but we presume that you desire to know what back taxes you carry over in your back tax book as a lien on the property in the event the owner redeemed the property from a third sale at which the bid was not sufficient to pay the full amount of taxes, penalty, interest and cost charged against the tract. This inquiry is determined by Section 9953b, page 432, Laws of Missouri, 1933, which reads as follows:

"Such lands may be redeemed from such sale upon the same terms and conditions as other lands may be redeemed from delinquent tax sales, as provided herein; but in the event of the redemption of any land from any sale made under the provisions of this act, the land so redeemed shall be liable to resale by such county collector at the next or any subsequent tax sale of lands for delinquent taxes for all delinquent taxes, penalty, interest and costs not paid by such sale."

You will note from the last phrases of this section that in the event the land is redeemed from the third sale, which sale was not for an amount sufficient to pay all taxes, penalties, interest and costs against the tract, then the collector on the next or any subsequent tax sale shall again offer the land for the balance of such delinquent taxes, penalties, interest and costs. Therefore, in the event there was a redemption from a third tax sale of this character, it appears that the legislature intended that you should carry the balance of such taxes as a charge or lien against the property for which the property was to be sold at the next or any subsequent sale. Under usual rules of construction any sum which you received should be applied to the oldest taxes which are existing against the tract. For instance, you have taxes for 1929, 30, 31, 32, 33, 34 and 35 against a given tract. The amount bid at the third sale is sufficient to pay all of the 1929 taxes, with penalties and interest, and half of the 1930 taxes. In the case this was redeemed by the owner, you would then place upon your list of delinquent lands the balance due on the 1930 taxes, to-

gether with the taxes due for 1931, 32, 33, 34 and 35, and at the next sale after the owner had redeemed the property from the prior sale the land would be offered for sale for all of these taxes, plus any later taxes which might be delinquent.

CONCLUSION

It is therefore the opinion of this office that in the event there is a redemption from the third sale at which sale a bid was not received sufficient to pay all the taxes, penalties, interest and costs, then it is the duty of the county collector at the next or any subsequent tax sale to offer the tract or the certificate of purchase thereon for the balance of such taxes, penalties, interest and costs which were not paid at the prior sale.

III.

Outlawed taxes are not a charge against property for subsequent sale.

The sections hereinbefore cited indicate that each years taxes assessed against the property are to be included in the list of delinquent lands and lots and that such list is the basis for the publication of sale. Accordingly, if at the third sale no offer whatsoever is received by the collector, the law making no provision for a fourth sale, it would appear that those taxes, which at the next sale will be more than five years delinquent, are not a charge against the property which can be enforced under the provisions of the Jones-Munger law. In this connection, we refer you to Section 9961, page 405, Laws of Missouri, 1935. By virtue of this section, a statute of limitations is operative as to all taxes, initial proceedings for the sale of which have not been instituted within five years of the date of the proposed sale. It is our view that after a third sale is had on a given tract of land without a sale at such offering, the advertisement for sale, published the next succeeding year, constitutes the initial proceeding contemplated by Section 9961 supra.

CONCLUSION

It is therefore the opinion of this office that at the next sale of lands and lots for delinquent taxes, following a sale at which the tract or lot of land has been offered for the third time without any bid, you should offer the certificate of purchase on such lot or tract of land for all taxes which are not outlawed, to-wit, which did not become delinquent more than five years prior to the date of such proposed sale.

IV.

Certificate of purchase to
bear the years of delinquent
taxes for which land is sold.

Under point one of this opinion, it has been determined that the land should have been advertised and sold for all the delinquent taxes existing against the tract at the time of the sale. Such being the case, it necessarily follows that the certificate of purchase will bear all the years for which the taxes were delinquent. This is so by virtue of the provisions of Section 9953d, page 433, Laws of Missouri, 1933, which provides the contents of the certificate of purchase, and states in part:

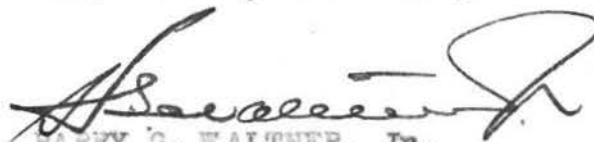
"* * * the total amount of the tax, with penalty, interest and cost, and the year or years of delinquency for which said land or lots were sold, separately stated, * * * * *".

Therefore, the answer to your illustration suggested in your communication is that on Bill No. 277, such as you have enclosed, which itemizes the taxes from 1929 to 1935, inclusive, and assuming that your advertisement set forth each of these years, your certificate of purchase should designate all of these years as being the taxes delinquent for which the land or lot was sold.

CONCLUSION

It is therefore the opinion of this office that, if the property has been sold for the delinquent taxes existing against the tract or lot at the time of the sale, following the advertisement, the certificate of purchase should by virtue of Section 9953d, page 433, Laws of Missouri, 1933, state each and every year for which such delinquent taxes were due, it being assumed that the land was not advertised or sold for outlawed taxes.

Respectfully submitted,



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APPROVED:

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HGW:RT
Enc.