

TAXATION: Maximum penalty interest collectible on delinquent personal and real estate taxes.

2.20

February 18, 1936.



Hon. J. K. Robbins
Collector of Revenue
New Madrid County
New Madrid, Missouri

Dear Mr. Robbins:

Your request for an opinion of this office to General McKittrick of recent date has been referred to me for reply. Your request reads as follows:

"There seems to be some uncertainty as to the proper amount of interest collectors should charge on delinquent taxes.

I am now collecting 12% while another collector is collecting but 10%

An early ruling on this point will be much appreciated."

I presume that you refer in your communication to general delinquent real estate taxes and shall accordingly base the opinion on that premise.

Section 9952, page 429, Laws of Missouri 1933, provides for the interest penalty to be charged on delinquent taxes included in the list of delinquent lands and lots. This section provides for the making up of the list of delinquent lands and lots, for the describing of the same,

"and charging them with the amount of delinquent tax and naming the years delinquent, separately stated, and in addition thereto a penalty of ten per centum on such tax delinquent for the preceding year* * * provided, however,

if taxes are paid on land or lots delinquent for the preceding year at any time prior to sale thereof as in this act provided, the per centum of penalty added shall not exceed one per centum per month or fractional part thereof or ten per centum annually.
* * * *"

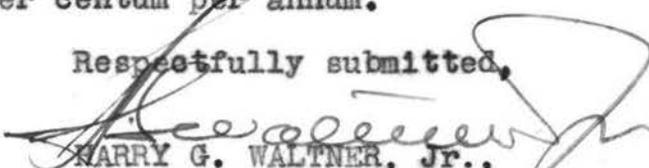
By this provision it is clear that for a full year the delinquent penalty shall not be more than ten per centum, and if the tax is delinquent for only a portion of a year or a portion of a year in addition to a full year the per cent penalty for that part of the year shall be one per cent per month but not to exceed ten per cent annually. Thus as a practical matter a taxpayer paying delinquent taxes in October should be charged ten per cent penalty for that year and even though the taxes for that year are not paid until November or December the penalty for that year is not to exceed the ten per cent which the taxpayer would have had to pay had he paid his delinquent taxes in October. This is a change from the law as it existed prior to the enactment of Senate Bill 94 in 1933, as prior to the enactment of the law it was permissible for the county collectors to charge up to twelve per cent during the first year for which the tax was delinquent. However, the new law has limited this charge to ten per cent.

In connection with the penalties which may be collected on such delinquent tax we direct your attention to the provisions of Senate Bill 143, page 408, Laws of Missouri 1935, as that law has modified the penalties which are now collectible on delinquent real estate and personal taxes.

CONCLUSION.

It is therefore the opinion of this office that penalty interest on delinquent personal and real estate taxes cannot exceed ten per centum per annum.

Respectfully submitted,


HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

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