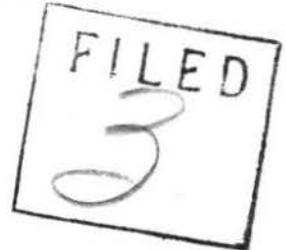


TAXATION: Newspaper publishing list of delinquent lands entitled to only one fee for each description regardless of number of years' taxes due against said land.

August 8, 1938

Hon. Richard C. Ashby
Prosecuting Attorney
Livingston County
Chillicothe, Missouri



Dear Sir:

This will acknowledge receipt of your inquiry of recent date which reads as follows:

"The County Treasurer has asked me to write for an opinion from your office concerning interpretation of the following clause of Sec. 9952B as amended by the section acts of 1935 in words and figures as follows:

'The expense of such printing shall be paid out of the County Treasury, and shall not exceed the rate fixed in the County printing contract, if any, and in no event to exceed one dollar (\$1.00) for each description, and cost of printing paid by the County shall be taxed as part of the costs of the sale of any land or lot contained in such lists.'

It is customary for the Treasurer, in preparing the advertisement, to incorporate the taxes for several years in each description. He contends, and I think correctly, that the newspaper is entitled to one dollar for each description, even though there be several years taxes incorporated in that description. The newspaper is demanding one dollar for each year taxes published in that particular description. That is to say, in the description of one particular lot, if there be taxes for 1933,

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1934, 1935 and 1936 due, they demand four dollars (\$4.00) for the publication of such description, because as they say, each year is a separate description and under that section is entitled to four dollars."

The method of enforcing the lien for taxes against lands has been changed in recent years, and there are no court decisions construing many of the details of the present method. We must, therefore, take the statutes applicable to the question set forth in your letter and try to give them a reasonable interpretation.

Section 9952, Laws of 1933, page 429, reads 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, including therein the delinquent taxes of all cities and incorporated towns having authority to levy and collect taxes under their respective charters or under any law of this state returned delinquent to the county collector, separately stated, describing such lands or lots as the same are described in the tax books and said delinquent returns, as corrected under sections 9938 and 9942, 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 and an additional annual ten per centum on taxes for each year prior to the preceding year, and shall certify to the correctness thereof, with the date when the same was recorded, and sign the same by himself, or deputy, officially; * * * * *"

The foregoing section requires a list to be made of the various tracts of land and lots upon which taxes are delinquent. It provides that the list shall describe such lands or lots by the same description used in the tax books and delinquent returns, and then provides that they, the delinquent lands or lots as listed by such descriptions, shall be charged with the amount of delinquent taxes, naming the years delinquent separately. It seems clear that this statute contemplates that in making these lists, the land shall be described, and that opposite such description shall be entered all delinquent taxes against such land, separately stated by years. This is the practical way to make such list, for in checking the record of the delinquent taxes on any land, when the particular tract is located in the list, you would have before you all the delinquent taxes against that particular land. It would be a useless thing to require the land to be described for each year taxes were delinquent against it, and we must assume that the Legislature did not intend to require the doing of useless labor in this connection,

Section 9952b, Laws of 1935, page 403, reads in part as follows:

"The county collector shall cause a copy of such list of delinquent lands and lots to be printed in some newspaper of general circulation and published in the county, for three consecutive weeks, one insertion weekly, before such sale, the last insertion to be at least fifteen days prior to the first Monday in November. And it shall only be necessary in the printed and published list to state in the aggregate the amount of taxes, penalty, interest and cost due thereon, each year separately stated, and the land therein described shall be described in forty-acre tracts or other legal subdivision, and the lots shall be described by number, block, addition, etc.; * * * * *

The expense of such printing shall be paid out of the county treasury and shall not exceed the rate fixed in the county printing contract, if any, but in no event to exceed one dollar for each description, which cost of printing at the rate paid by the county shall be taxed as part of the costs of the sale of any land or lot contained in such list."

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The lists required to be published by Section 9952b, supra, are the lists provided for in Section 9952. Even had Section 9952b merely required publication of the lists provided for in Section 9952, we think such publication would have only required a description of a tract of land with the amount of all delinquent taxes against it separately stated by years. However, Section 9952b goes further and definitely says "it shall only be necessary in the printed and published list to state in the aggregate the amount of taxes, penalty, interest and cost due thereon, each year separately stated". "Due thereon" means due on that particular tract of land. "Aggregate amount of taxes, penalty, interest and cost due thereon" would mean taxes, penalties, interest and costs for all years due on said described land. The last sentence of said latter section provides that the expense of such publication shall not exceed one dollar (\$1.00) for each description.

CONCLUSION

It is, therefore, the opinion of this office that in publishing lists of delinquent lands under Section 9952b, Laws of 1935, page 403, newspapers can charge only one fee for each tract of land listed, regardless of how many years' taxes are delinquent against said tract.

Respectfully submitted,

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Assistant Attorney General

APPROVED By:

J.E. TAYLOR
(Acting) Attorney General

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