

TAXATION AND REVENUE: Outlawed taxes are not a charge against property.



February 14, 1939.

Honorable Charles S. Greenwood
Prosecuting Attorney
Livingston County
Chillicothe, Missouri

Dear Mr. Greenwood:

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

"The County Treasurer here desires an opinion upon the following question.

"He has certain taxes on his book that have run delinquent for more than five years without any court order concerning them. He also has certain property that has been offered for sale three times with no bidders.

"The question is, does he have a right to charge these taxes off without an order for the county court. Thanking you for an early reply, I am"

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

Section 9953 is, in part, as follows:

"If at the first offering of sale of any tract of land or lot under the provisions of this act no person shall bid therefor a sum equal to the delinquent taxes thereon with interest, penalty and costs, then the clerk of the sale shall note such fact * * * "

Section 9953a is 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."

Section 9962b is, in part, as follows:

"All lots, tracts and parcels of land upon which taxes assessed or levied prior to the taking effect of this act remain due and unpaid at the date when such taxes would have become delinquent as provided in the act under which they were assessed and levied, and which taxes are not merged in judgment prior to the effective date of this act, shall be deemed to be delinquent under the provisions of this act, and the same proceedings shall be had to enforce the payment of such unpaid taxes, with interest, penalty and costs, and payment enforced and liens foreclosed under and by virtue of the provisions of this act and the same rights of redemption shall attach. For the purposes of foreclosure under this act, the date of delinquency shall be foreclosure under this act, the date of delinquency shall be construed to mean the date when the taxes first became delinquent; * * * "

Section 9961, page 405, Laws of Missouri 1935, is as follows:

"No proceedings for the sale of land and lots for delinquent taxes under the provisions of Chapter 59, Revised Statutes of Missouri, 1929, relating to the collection of delinquent and back taxes and providing for foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings therefor shall be commenced within five (5) years after delinquency of such taxes, and any sale held pursuant to initial proceedings commenced within such period of five (5) years shall be deemed to have been in

compliance with the provisions of said act in so far as the time at which such sales are to be had is specified therein, Provided further, that in suits or actions to collect delinquent drainage and/or levee assessments on real estate such suits or actions shall be commenced within five years after delinquency, otherwise no suit or action therefor shall be commenced, had or maintained."

Outlawed taxes are not a charge against property for subsequent sale and should not be carried forward in the "back tax book".

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, supra. 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,

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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 initial proceeding and such outlawed taxes should not be carried forward in the "back tax book".

Respectfully submitted,

S. V. MEDLING
Assistant Attorney General

APPROVED:

J. W. BUFFINGTON
(Acting) Attorney General

SVM:LB