

TAXATION : Cities of the third class must collect their
AND REVENUE : taxes on real estate under the provision of
Senate Bill No. 94 of the Laws of Missouri
for 1933. Section 9953b of Senate Bill No.
311 of the 60th General Assembly does not apply
to cities of the state except the City of St.
Louis in the capacity of a county.

August 17, 1939.

Mr. A. W. Tyner
City Collector
Poplar Bluff, Missouri



Dear Mr. Tyner:

We desire to acknowledge your letter of
August 11th, which is as follows:

"After reading (Perfected) Senate Bill
Number 311 of the 60th General Assembly
I am at a loss to understand Section
Number 9953B.

"Question: Do cities of the third class
come under this section? Or in other
words does Section Number 9963C of the
laws of 1933 allow cities of the third
class to handle their delinquent lands
and lots sales under Section Number
9953B in order to protect them from an
inadequate bid. If cities of the third
class do not come under this new amend-
ment (Section No. 9953B) and have no way
of protecting them from inadequate bids
it is an unfair act, as I have been
forced to sell at the third offering
for sale, at a bid of only one dollar
many pieces of property for the taxes
that was well worth all the state,
county and city taxes that was assessed
against the property.

"Since the Jones Munger Delinquent Tax
Law was passed in 1933 I have advertis-
ed and sold city property that was de-
linquent for taxes just the same way
and under the same law as the County
Collector has. Please give me, or if

possible get for me, some authoritative opinion, so that I may be governed according to the law."

Section 9953b of Senate Bill No. 311 of the 60th General Assembly of Missouri is, in part, as follows:

"It shall be lawful for the County Court of any County, and the Comptroller, Mayor and President of the Board of Assessors of the City of St. Louis, to designate and appoint a suitable person or persons with discretionary authority to bid at all sales to which Section 9953a is applicable, and to purchase at such sales all lands or lots necessary to protect all taxes due and owing and prevent their loss to the taxing authorities involved from inadequate bids. Such person or persons so designated are hereby declared as to such purchases and as title holders pursuant to collector's deeds issued on such purchases, to be trustees for the benefit of all funds entitled to participate in the taxes against all such lands or lots so sold. Such person or persons so designated shall not be required to pay the amount bid on any such purchase but the collector's deed issuing on such purchase shall recite the delinquent taxes for which said lands or lots were sold, the amount due each respective taxing authority involved, and that the grantee in such deed or deeds holds title as trustee for the use and benefit of the fund or funds entitled to the payment of the taxes for which said lands or lots were sold. The costs of all collectors' deeds, the recording of same and the advertisement of such lands or lots, shall be paid out of the county treasury in the respective counties and such fund as may be designated therefor by the authorities of the City of St. Louis. All lands or lots so purchased shall be sold and deeds ordered executed and delivered by such

trustees upon order of the County Court of the respective counties and the Comptroller, Mayor and President of the Board of Assessors of the City of St. Louis, and the proceeds of such sales shall be applied, first, to the payment of the costs incurred and advanced, and the balance shall be distributed pro rata to the funds entitled to receive the taxes on the lands or lots so disposed of. * * * "

Section 9963c of Senate Bill No. 94 (Jones-Munger Law) of the Laws of Missouri 1933 is, as follows:

"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' or in Section 9962 may be township collector. Where applicable it shall also refer to the collector, or other proper officer, collecting taxes in any city or town. Where applicable the word 'county' as used in this act shall be construed 'City' and the words 'county clerk' shall be construed 'city clerk, or other proper officer.'"

This department rendered an opinion to the State Tax Commission construing Senate Bill No. 94, supra, with respect to cities of different classes. A copy of that part of said opinion relating to cities of the third class, holding that City Collectors must collect the taxes under the procedure provided in said Senate Bill No. 94, is enclosed herein.

Section 9953b, supra, provides that "It shall be lawful for the County Court of any County, and the Comptroller, Mayor and President of the Board of Assessors of the City of St. Louis, to designate and

appoint a suitable person or persons * * * to protect all taxes due and owing and prevent their loss to the taxing authorities involved from inadequate bids." Other parts of said section clearly show that it was the intent of the legislature that such section should only comprehend counties and the City of St. Louis in the capacity of a county.

The dual powers and rights of the City of St. Louis as a city and quasi county or political subdivision of the state is construed by the Supreme Court in the case of *Lovins vs. City of St. Louis*, 84 S. W. (2nd) 127, 130, in the following language:

"The predominant character and phase of St. Louis as a city in every corporate sense, to which reference was made in a preceding paragraph, is established and embraced only in the scheme set out in sections 20, 21, and 22 of said constitutional amendment (R. S. 1929, pp. 130-131). Neither grant nor limitation of appeal appears therein. The sole and only section found in the amendment which confers upon St. Louis any rights, powers, or functions as a quasi county or political subdivision of the state is section 23 (R. S. 1929, p. 131), of which the relevant part reads: 'The city, as enlarged shall be entitled to the same representation in the General Assembly, collect the state revenue and perform all other functions in relation to the State, in the same manner, as if it were a county as in this Constitution defined.' Under the maxim *ejusdem generis* 'All other functions' must be interpreted as comprising functions of the same general nature as those specified in connection with that phrase, and the intended functioning means normal action in relation to the matter specified and others of the same nature. A county, as a governmental unit composed of the people resident within its prescribed territory, can only function concerning affairs com-

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mitted to it as a governmental unit. It has nothing to do with the purely corporate or nongovernmental affairs of the city as such and no functions concerning them to perform. The city of St. Louis, in so far as its county functions extend, is coequal in that respect with all other counties in the state but no different therefrom. Constitutionally, while St. Louis in its entirety is of a dual nature, it is in no sense either a super-city proper or a super-county. It is the declared purpose of said section 23 that the charter of the city shall always be in harmony with the Constitution and subject to the laws of the state."

CONCLUSION

Therefore it is the opinion of this department that cities of the third class must collect their taxes on real estate under the provision of Senate Bill No. 94 of the Laws of Missouri for 1933. Section 9953b of Senate Bill No. 311 of the 60th General Assembly does not apply to cities of the state except the City of St. Louis in the capacity of a county.

Respectfully submitted,

S. V. MEDLING
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

SVM:LB