

TAXATION AND  
REVENUE:

County court may compromise delinquent taxes on real estate before offered for sale, and also for deficiency sales under the provisions of 9953a and 9953b, Laws of Mo. 1933, in event of redemption thereunder and provided, that such sales were consummated before such statutes were repealed.

November 25, 1940

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

Dear Mr. Greenwood:

We desire to acknowledge your request for an opinion with reference to the Jones-Munger Law on October 8, 1940, which is as follows:

"I would like to have your opinion on the following question:

Can the County Court make a compromise settlement of delinquent taxes upon lands which a certificate of purchase has been redeemed?

The situation we have is this: The owner of the land within the redemption period, in accordance with the Jones-Munger Law, paid the collector of revenue the necessary sum to redeem the lands and a redemption certificate was issued. Now the owner of the land has asked the County Court to compromise the delinquent taxes due on the lands, including the year for which the land was sold and then redeemed."

We desire also to acknowledge receipt of your supplemental letter of October 12, 1940, which is as follows:

"I have your letter of the 10th saying you would like to know whether the sale mentioned in my letter to you of October 8 was first, second or third sale. I do not know the particular year, but I understand it was a first sale. However, I would like to have the opinion covering first, second and third sales. As I understand it, of course, under the 1939 amendment, there is no

redemption from the sale and the purchaser is entitled to his deed.

I would appreciate your opinion on these questions."

A sale of land for delinquent taxes on real estate under the provisions of Section 9952c Laws of Mo. 1933, page 431 is made only when the bid is adequate to pay the taxes, interest and charges thereon.

Such tract of land can be reoffered under the provisions of Section 9533 thereof only when the first bid is for an insufficient sum to pay the taxes, interest and charges thereon. Said Section 9953 provides 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 in his record of sale and the county collector shall note a recital thereof in his record containing the list of delinquent lands and lots, and said tracts of land or lots shall be again offered for sale, at the next sale of delinquent lands and lots as in this act provided, if such lands or lots be at such time delinquent."

Section 9953a thereof 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." (Underscoring ours.)

Redemption from each sale--and resale for a deficiency in the third sale--may be had under the provisions of Section 9953b thereof which is 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."

Therefore the county court would have no further interest in the first or second sale, with reference to compromise of taxes, because the payment of all taxes, penalties, interest and costs was a prerequisite to the issuance of a certificate of sale under such first and second sale.

Senate Bill 311 and Section 9953a thereof, Laws of Mo. 1939, page 850, which was in full force and effect at the time of the 1939 tax sales on real estate, repealed Section 9953a and 9953b supra. Under the provisions of said Section 9953a Laws of Mo. 1939 a sale by the collector entitled the purchaser to the delivery of a deed thereby eliminating redemption from such sale. It further provided the following condition as a prerequisite to the delivery of such deed:

"In the event the real purchaser at any sale to which this section is applicable shall be the owner of the lands or lots purchased, or shall be obligated to pay the taxes for the non-payment of which such lands or lots were sold, then no collector's deed shall issue to such purchaser, or to anyone acting for or on behalf of such purchaser, without payment to the collector of such additional amount as will discharge in full all delinquent taxes, penalty, interest and costs."  
(Underscoring ours.)

There could be no question of compromise of delinquent taxes on real estate with the owner under this section because he is required to pay all the taxes before he may acquire his deed.

This leaves the question of compromise by the county court applicable to only a third sale consummated under the provisions of Section 9953a Laws of Mo. 1933 supra where such sale was made for less than all the taxes, penalties, interest and costs and there was a redemption therefrom, and also to delinquent taxes on real estate which has not been offered for sale.

Section 9950 Laws of Mo. 1933 page 427 is the statute which gives to the county court its authority to compromise back taxes and is in part as follows:

"Whenever it shall appear to any county court, or if in such cities the register, city clerk or other proper officer, that any tract of land or town lot contained in said 'back tax book' or recorded list of delinquent land and lots in the collector's office is not worth the amount of taxes, interest and cost due thereon, as charged in said 'back tax book' or recorded list of delinquent land and lots in the collector's office, or that the same would not sell for the amount of such taxes, interest and cost, it shall be lawful for the said court, or if in such cities the register, city clerk or other proper officer, to compromise said taxes with the owner of said tract or lot \* \* \* \*."

#### CONCLUSION

Therefore it is the opinion of this department that the county court may compromise back taxes under the provisions of Section 9950 supra for which the land has not been offered for sale, also for deficiency sales under the provisions of Sections 9953a and 9953b Laws of Mo. 1933 supra in event of redemption therefrom and providing

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that such sales were consummated before said sections were repealed by said Section 9953a Laws of Mo. 1939 supra.

Respectfully submitted,

S. V. MEDLING  
Assistant Attorney-General

APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney-General

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