

TAXATION AND REVENUE: The items of cost which should be included in the publication for sale.

August 18, 1941

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FILED

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

Dear Mr. Greenwood:

We desire to acknowledge your request of August 12, 1941, for an opinion, which is as follows:

"The County Treasurer and Ex Officio Collector has been making his list of delinquent lands for publication under the Jones-Munger Tax Law, and is desirous of having an opinion as to what items of expense should be included in the publication.

"Section 11126 is the provision that provides for the publication of the delinquent lands list. It provides that the published list is to state in the aggregate, the amount of taxes, interest, and cost due thereon, each year separately stated and further provides that the cost of publication not exceeding \$1.00 for description shall be taxed as part of the cost of sale.

"Section 11133 provides that the collector shall collect from the purchaser 50¢ on the certificate of purchase.

"Section 11151 provides that the collector shall get \$1.50 for making the collector's deed to the purchaser and Section 11139 provides that the clerk for the County Court shall get 25¢ for clerking the sale and provides it shall be paid by the purchaser.

"Section 11150 provides that the purchaser shall pay to the collector the recording fee and shall be included in the cost of sale.

"The main question to be determined is whether these items that I have mentioned in Sections 11133, 11151, 11139, and 11150, should be included in the advertisement as part of the cost, as provided for by Section 11126,

"I would like to have an immediate response to this, as the collector is making out his delinquent lists for the newspaper."

Section 11126 Revised Statutes, 1939, is in part as follows:

"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, \* \* \*"

Section 11135 Revised Statutes, 1939, provides in part as follows:

"For each certificate of purchase issued, including the recording of the same, the county collector shall be entitled to receive and retain a fee of fifty cents, to be paid by the purchaser and treated as a part of the cost of the sale, and so noted on the certificate. For noting any assignment of any certificate the county collector shall be entitled to a fee of twenty-five cents, to be paid by the person requesting such recital of assignment, and which shall not be treated as a part of the cost of the sale."

The purchaser must, therefore, pay fifty cents for the issuance of the certificate of purchase, and the recording of the same, although it must be treated as a part of the cost of the sale and noted on the certificate as such.

Under such a circumstance the holder of a certificate of purchase, would in case of redemption have the right to recover from the redemptioner such sums.

Under the provisions of Section 11139 Revised Statutes, 1939, the county court clerk or his deputy shall act as clerk of the sale, and enter the same of record in the manner provided therein. For such services he shall receive twenty-five cents for each tract or lot sold. Such fee shall include entry or recital of the redemption on such record. The fee is to be paid by the purchaser, and to become part of the cost of sale. Such transaction shall be noted on the record of the county clerk.

Section 11150 Revised Statutes, 1939, relates to the execution of the deed, and a fee for the recording thereof, which must be paid by the purchaser, and included in the cost of sale.

Section 11151 Revised Statutes, 1939, provides under certain circumstances that the clerk shall make a collector's deed for which he shall receive a fee of \$1.50. No provision is made that such sum shall be treated as costs.

Section 11145 Revised Statutes, 1939, is in part as follows:

"The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the two years next ensuing, in the following manner: By paying to the county collector, for the use of the purchaser, his heirs or assigns, the full sum of the purchase money named in his certificate of purchase and all the costs of the sale \* \* \* " (Underscoring ours.)

Therefore, in event the property is redeemed, the redemptioner must pay such cost including the publication.

Section 11129 Revised Statutes, 1939, is as follows:

"If at the first offering of sale of any tract of land or lot under the provisions of this law 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 law provided, if such lands or lots be at such time delinquent. If at the second offering for sale no person shall bid therefor a sum equal to the then delinquent taxes thereon with interest, penalty and costs, then the clerk of the sale shall note such fact upon his record of the sale, and the county collector shall enter a recital of such fact in his record book containing the list of delinquent lands and lots." (Underscoring ours.)

Section 11130, Revised Statutes, 1939, is in part 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 same to the highest bidder, and there shall be no period of redemption from such sales."

The right to costs is dependent on statutory provision. St. Louis v. Neintz 18 S. W. 30, 107 Mo. 611; 615; State ex. rel. Clarke v. Wilder 94 S. W. 499; 197 Mo. 27, 32.

Hon. Chas. S. Greenwood.

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The statute relating to the allowance and collection of costs must be strictly construed. Van Trump v. Sanneman 187 S. W. 124.

CONCLUSION.

Therefore, in view of such statutes, it is clearly the intention of the Legislature that advertisement of published lists of lots and lands shall state in the aggregate the amount of taxes, penalty, interest and cost due thereon.

Respectfully submitted,

S. V. MEDLING  
Assistant Attorney General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney General

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