

TAXATION :
SCHOOL LANDS:

The holder of a certificate of purchase of school lands is liable for taxes during the time of the ownership of such certificate.

February 4, 1942

Hon. Frank S. Huffhines
Prosecuting Attorney
Stone County
Galena, Missouri

Dear Mr. Huffhines:

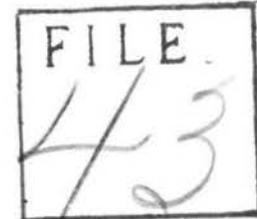
This is in reply to your letter of recent date, wherein you request an opinion from this department on the question of whether or not the holder of a certificate of purchase of school lands (16th section) is liable for taxes thereon during such ownership.

Under article 4 of Chapter 81, R. S. Mo., 1909, the sixteenth section of each congressional township is sold for the use and benefit of school funds. Under section 12722 of said article the purchaser in cases where he is not able to pay for such land at the time of sale executions is bound for payment of same.

Under section 12723 of said article, a certificate of purchase is issued by the sheriff to the purchaser, in which the lands are described the amount of the purchase and the manner in which the payment is secured is stated.

After the payment is made, then the purchaser is entitled to a patent to the lands purchased. In the question which you have submitted, it seems that the purchaser has defaulted in the payment of the lands which have been purchased under these sections.

Now the question is, would the County Court have authority to tax these lands during the time the certificate of purchase was outstanding and before any patent has been issued. In the case of State ex rel. v. Baumann, 153 S. W. (2d) 31, 34, the court in speaking of the relationship which exists between the parties when a contract of sale has been entered into said:



"We find the general rule in equity where a contract for the sale of real estate has been entered into, thus creating the relationship of vendor and purchaser, that as to private persons the purchaser is regarded as the owner and the vendor as holding the legal title in trust for him.* * *"

Applying this rule here, it would seem that the owner of the certificate of purchase is the owner of the land and that the county is holding the legal title in trust for the owner of the certificate of purchase.

In the case of Savings Trust Company of St. Louis, v. Skain, 131 S.W. (2d) 566, 570, the court had before it the question of the relationship which exists between the person who had entered into a contract with the commissioner of finance for the purchase of certain properties held by him as such commissioner. And in speaking of this relationship the court said:

"The relation of vendor and purchaser exists as soon as a contract for the sale and purchase of land is entered into. Equity regards the purchaser as the owner and the vendor as holding the legal title in trust for him:* * *"
(Citing cases)

Following the rule announced in these two cases the holder of the certificate of purchase is the owner of these school lands and the county is holding the legal title in trust for him. Section 10940 R. S. Mo., 1939, provides as follows:

"Every person owning or holding property on the first day of June, including all such property purchased on that day, shall be liable for taxes thereon for the ensuing year."

CONCLUSION.

From the foregoing, it is the opinion of this department that if a person owns a certificate of purchase for

Hon. Frank S. Huffhines

-3-

February 4, 1942

school lands (16th section) on the first day of June and on the date that the levy is made for such taxes, then such person shall be liable for the taxes thereon for the ensuing year.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

TWB:AW