

SCHOOLS: LIMITATION
OF TAX RATES:

Rates of taxes for school purposes in cities, towns and consolidated school districts.

March 30, 1942.

4-1

Hon. Walter G. Stillwell
Prosecuting Attorney
Marion County
Hannibal, Missouri



Dear Sir:

This is in reply to your letter of recent date wherein you request an opinion from this Department on the following statement of facts:

"The Clerk of the Marion County Court has asked that I obtain your opinion on the following questions:

"1. What is the highest rate of taxation that may be levied by the Board of Directors of a common school district, for School purposes (Teachers' wages and incidental expenses) without a vote of the people?

"2. Same question as applied to the Board of Education of a Consolidated High School District?

"3. Same question as applied to the Board of Education of a Town or City School District?"

Section 11 of Article X of the Constitution provides in part as follows:

"Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for

State and county purposes.* * * * *
* * * * * For school purposes in districts composed of cities which have one hundred thousand inhabitants or more, the annual rate on property shall not exceed sixty cents on the hundred dollars valuation and in other districts forty cents on the hundred dollars valuation: Provided, the aforesaid annual rates for school purposes may be increased, in districts formed of cities and towns, to an amount not to exceed one dollar on the hundred dollars valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are taxpayers, voting at an election held to decide the question, vote for said increase. * * * * *

In the case of Peter v. Kaufmann 38 S. W. (2d) 1062, 1066, the court in speaking of the nature of this tax said:

"* * * * * Section 11, Art. 10, of the Constitution places limitations on the annual rates of taxation which can be levied for school purposes, which term is construed to cover all the usual and ordinary expenses of maintaining and operating schools. Hudgins v. Consolidated School District, 312 Mo. 1, 12, 278 S.W. 769.* * * * *

Also in State ex rel. Marlowe v. Himmelberger-Harrison Lumber Company et al., 58 S. W. (2d) 750, 753, the court in speaking of the objections this tax covers said:

"Defendant also refused to pay the taxes based on the levy of 50 cents on the \$100 valuation 'for building fund' as being illegally assessed, and this contention must be sustained. As to what is

meant by 'building fund,' we find that section 9312, R. S. 1929 (Mo. St. Ann. section 9312), provides for dividing school revenues into three funds, designated as teachers' fund, incidental fund, and building fund, and that 'all money derived from taxation for building purposes, from the sale of school site, schoolhouse or school furniture, from insurance, from sale of bonds, from sinking fund and interest, shall be placed to the credit of the "building fund."' The incidental fund is derived wholly from taxes levied for incidental expenses, except that it is provided by said section 'that the board of directors shall have the power to transfer from the incidental to the building fund such sum as may be necessary for the ordinary repairs of school property.' The constitutional provision limiting rates of taxation (section 11, article 10) deals with taxation 'for school purposes,' which is comprehensive and covers all moneys derived from taxation going into any and all the three funds mentioned. This rate is fixed at 40 cents on the \$100 valuation, subject to be increased by a vote of the taxpayers within fixed limits, to wit, 65 cents in country school districts, and 100 cents in town and city districts.* * * * *

From this case it will be seen that the levy authorized by said section is to be used for school purposes, namely: teachers wages and incidental purposes. This applies to the common school district, the consolidated high school district or to the town or city school district. The rates referred to in said Section 11, Article X of the Constitution are the maximum rates which the various boards are authorized to levy without the vote of the taxpayers.

However, we refer you to a copy of an opinion dated April 5, 1934, to Mr. Robert L. Murphy, Prosecuting Attorney of Unionville, Missouri, which pertains to the limitations of levies made on

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account of the provisions of the 1931 school laws. We are enclosing a copy of this opinion for your information. It will be seen from this opinion that a School Board may levy the amounts prescribed by the Constitution, but in order to obtain the benefits under the 1931 school laws, it is limited by the provisions of that Act to 20 cents on the \$100 valuation, unless authorized by a vote of the people to levy in excess of that rate. In other words, a board under the Constitution may levy the maximum rates prescribed in said section 11 without a vote of the taxpayers of the district. But if it levies in excess of 20 cents on the \$100 valuation, it forfeits its rights to the minimum guarantee provided for in the 1931 school laws.

CONCLUSION

It is therefore the opinion of this Department, that by virtue of the provisions of the Constitution, the rate of tax for school purposes which the boards may levy in districts composed of cities which have one hundred thousand inhabitants or more, shall not exceed 60 cents on the \$100 valuation and in all other districts the rates shall not exceed 40 cents on the \$100 valuation.

We are further of the opinion however, that if such districts wish to receive the benefits of the minimum guarantees provided for in the 1931 school law, that they are only authorized to levy a rate not to exceed 20 cents on the \$100 valuation, unless they be authorized by a majority of the voters who are taxpayers of the district, voting thereon.

Respectfully submitted

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APPROVED:

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