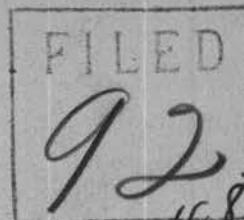


TAXES: Limitations of time in which suits may be brought for
BRIDGES: collection of delinquent taxes on bridges across rivers.

December 10, 1948



Mr. Curt M. Vogel
Prosecuting Attorney
Perry County
Perryville, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you request an opinion on the procedure for collection of delinquent taxes on the Chester bridge at Chester, Illinois over the Mississippi river and which connects Chester, Illinois and Perry County, Missouri.

The two questions submitted are: (1) Assuming that there is a tax liability on the part of Chester, Illinois when must action be taken to preserve the tax lien? Must this be done prior to January 1, 1949, to protect the tax lien for the 1944 assessment? (2) Is the City of Chester, which is a municipal corporation, as owner of said bridge, liable to the State of Missouri and Perry County as would be a regular corporation or individual.

On the second question which you have submitted I find that this department on the 19th day of January, 1942, by an opinion to the Honorable Mark Morris, prosecuting attorney of Pike County, Missouri, considered and ruled on the same question. I am enclosing a copy of this opinion for your information.

In your first question you state that the taxes in question were those which were assessed in 1944. The taxes assessed here on this bridge were assessed under authority of Section 11295, R.S. Mo. 1939. This Act authorized the assessment of taxes on such bridges, and the levy and collection of such tax was to be in the same manner as that of levying and collecting taxes on railroad property.

Under Section 11268, R. S. Mo. 1939, taxes on railroad property became delinquent on the first of December next after the same became due and payable.

Under Section 10940, R. S. Mo. 1939, which was in effect at the time the tax here involved became delinquent, it is provided that every person holding property on the first of June would be

liable for taxes thereon for the ensuing year. In other words, prior to the 1945 Constitution, taxes were assessed as of June 1, of a certain year and the taxes were levied and collected on that assessment in the ensuing year. So the taxes which were assessed on this bridge in 1944 would be levied and collectible in 1945 and would not become delinquent until the first day of December, 1945.

Then on the question of the time within which suit for the collection of such taxes must be brought, we refer to Section 11165, R. S. Mo. 1939, which provides, in part, as follows:

"No proceedings for the sale of land and lots for delinquent taxes under the provisions of Chapter 74, Revised Statutes of Missouri, 1939, relating to the collection of delinquent and back taxes and providing for foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings therefor shall be commenced within five(5) years after delinquency of such taxes, and any sale held pursuant to initial proceedings commenced within such period of five(5) years shall be deemed to have been in compliance with the provisions of said law in so far as the time at which such sales are to be had is specified there: * * *"

Under this section it will be seen that suit for delinquent taxes on this bridge may be brought at any time within five years after they become delinquent, that is, taxes for the 1944 assessment, as we have stated above, became delinquent on December 1, 1945.

In the case of State ex rel. v. Carr, 178 Mo. 229, the court held that if a suit for taxes is brought within five years from the date such taxes became delinquent it is not barred by the foregoing statute of limitations.

Under these authorities and statutes it would therefore appear that taxes on the Chester bridge which were assessed on the valuation as of June 1, 1944, and which became delinquent on December 1, 1945, would not be barred by the statute of limitations until December 1, 1950.

CONCLUSION

From the foregoing, it is the opinion of this department that taxes on the Chester Bridge at Chester, Illinois over the Mississippi river, which were assessed in 1944 and levied in 1945 and became delinquent on December 1, 1945, are not barred by the five year

Mr. Curt M. Vogel

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statute of limitations, to-wit, Section 11165, R. S. Mo. 1939.

Respectfully submitted,

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Enc.