

INTANGIBLES TAX

*Taxation*

*on intangibles tax*  
Interest computed from date tax is due, which is date of filing return or March 15th where no return is filed.

January 8, 1951

*1-12-51*



Mr. T. R. Allen  
Supervisor, Income Tax Unit  
Department of Revenue  
Jefferson City, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"In connection with the filing and payment of intangible personal property tax returns, this department desires a ruling with respect to the delinquent date in the administration of the law and the interest to be collected thereon.

"In making this request I refer you to Laws of Missouri, 1945, p. 1914, and direct your attention to Sections 7, 10 and 11, which read as follows:

"Section 7. When tax return is made-- exception payable what date.--Except for the calendar year 1946, every person who, pursuant to any provision of this Act, is liable for a property tax on intangible personal property, shall on or before March 15 of the year for which the property is subject to said tax, file with the Department of Revenue on a suitable form prepared and distributed by it, a property tax return on intangibles, showing the kind of intangible owned, the amount of yield therefrom and the amount of tax for which he is liable for the year involved. The tax shall be payable at the

Mr. T. R. Allen

time the return is made and shall become delinquent on June 1st of the year in which it is due.'

"Section 10. Director of revenue may extend time--rate of interest.-- The Director of Revenue may, for good cause shown, extend the time for filing said property tax returns on intangibles; provided, however, that taxes due on such returns shall bear interest at the rate of one per cent (1%) per month, or part thereof, from the last date on which the return should have been filed.'

"Section 11. Failure to pay tax--rate of interest.--Every person who is liable for any tax pursuant to the provisions of this Act and who fails to pay the same when it is due shall be required to pay as part of such tax interest thereon at the rate of one per cent (1%) per month from such time but not to exceed ten per cent (10%) per annum, and the method of collecting the tax and penalty shall be the same as provided by law in the case of delinquent income taxes.'

"You will note by reference to these three sections that they are contradictory in some respects. The statutes provide that the returns shall be filed on or before March 15 and that remittance must accompany the return. In the other sections pertaining to the collection of interest you will note that the law does not make the return delinquent until June 1 of the year for which it is due.

"In order that this department may proceed within the meaning of the Act, we desire this opinion as to what date shall be used for the purpose of applying the interest rate on delinquent returns."

Mr. T. R. Allen

Section 11 of the intangibles tax law, which you have quoted in your opinion request, fixes the rate of interest to be collected when the tax is not paid when it is due at one per cent per month from the time when the tax is due. Section 7 requires the return to be made on or before March 15th, and the tax is made payable at the time the return is made. We feel that Section 7 fixes the time when the tax becomes due, that is, at the time the return is made. If no return is made, the due date would be the latest date fixed by law for filing a return or March 15th.

Section 7 does provide that the tax shall become delinquent on June 1st of the year in which it is due. We feel, however, that this provision does not govern the time for the computation of interest. Section 11 provides that the method of collecting the tax and penalty shall be the same as provided by law in the case of delinquent income taxes. Section 11367, Laws of Missouri, 1949, page 617, provides in part as follows:

"At the expiration of thirty (30) days after any delinquency, the director of revenue shall certify the name of any individual, association, joint stock company, syndicate, co-partnership, corporation, receiver, trustee, conservators, or other officer appointed by any state or federal court, or any other person or organization from whom any tax under this article shall be due, to the attorney general, and suit shall be instituted in any court of competent jurisdiction by the attorney general, or by the prosecuting attorney of the county at the direction of the attorney general, in the name of the state, to recover such tax and enforce the lien therefor, and service may be had on both residents and nonresidents in the same manner as provided by law in civil actions."

We think that the provision of Section 7 of the intangibles tax law fixing the date upon which the tax becomes delinquent is of significance when construed with the provisions relative to the certification by the director of revenue of delinquent taxes for the purpose of collection by suits. However, we do not feel that it governs the time as of which interest is computed.

Mr. T. R. Allen

CONCLUSION

Therefore, it is the opinion of this department that under the provisions of Section 11 of the intangibles tax law, Laws of Missouri, 1945, page 1914, interest is computed on the intangibles tax at the rate of one per cent per month from the time the tax is due, and that tax becomes due when the return is made. If no return is made, interest is computed from March 15th, the last day for making returns.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

  
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Attorney General