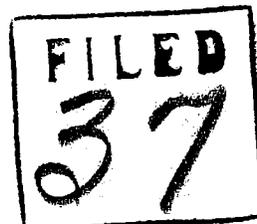


TAXATION:
BUILDINGS ON LEASED
REAL ESTATE:

Where buildings located on leased lands have been assessed as personal property, the amount of the taxes for the years that the buildings have been so assessed may not be included in the sale of such buildings for delinquent real estate taxes at the delinquent tax sale.

May 29, 1959



Honorable Charles E. Hansen
Prosecuting Attorney
Franklin County
Union, Missouri

Dear Sir:

This is in response to your request for an opinion dated May 21, 1959, which reads as follows:

"The Collector of Franklin County has requested that I write for an opinion concerning the sale of 'buildings on leased land for delinquent taxes'. The Assessor, for the years 1954, 1955, 1956 and 1957, assessed these buildings and club houses as personal property. For the year 1958, the Assessor assessed these buildings on leased land and listed them in the real estate book. These taxes are now five years delinquent and therefore, the question resolves itself as to whether the Collector should sell these buildings at the delinquent real estate tax sale in August of this year.

"Also, should the taxes for the years 1954 through 1957 be figured in on this sale?"

We are enclosing herewith copies of our opinions of April 19, 1939 to Mr. Clarence Evans, February 4, 1942 to Honorable O. A. Kamp, and September 19, 1953 to Honorable Hubert Wheeler, wherein it was concluded that under Missouri tax laws buildings and improvements placed upon leased lands

Honorable Charles E. Hansen

are to be taxed as real property. See also State ex rel. v. Personnel Housing, 300 SW2d 506.

You inquire as to whether the taxes for the years of 1954 through 1957 should be included in the sale of the buildings mentioned in your letter if they are sold at the delinquent real estate tax sale in August of this year.

We know of no provisions in the statutes relating to delinquent taxes wherein the sale of real property is authorized to satisfy delinquent personal property taxes unless such sale is under an execution levied after a personal judgment for the amount of the delinquent personal property taxes has been obtained against the taxpayer.

If the buildings were assessed as personal property for the years of 1954 through 1957, we are of the opinion that the amount of the taxes and penalties for those years may not be included in the sale of the buildings in the delinquent real estate tax sale for the reason set out herein above.

CONCLUSION

Therefore, it is the opinion of this department that where buildings located on leased lands have been assessed as personal property, the amount of the taxes for the years that the buildings have been so assessed may not be included in the sale of such buildings for delinquent real estate taxes at the delinquent tax sale.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Calvin K. Hamilton.

Yours very truly,

JOHN M. DALTON
Attorney General

CKH:lvd:ml
Enclosures