

LIBRARIES:
MERGER:
CITY AND COUNTY TAXES:
TAX RATES NOT REQUIRED
TO BE EQUALIZED:

When city library district with tax rate of 1/2 mill, and county library district, with rate of one mill, are to be merged under provisions of Section 182.040, RS Mo Cum. Supp., 1957, equalization of tax rates before districts can be merged is not required.

January 13, 1960



Honorable Paxton P. Price
State Librarian
State Office Building
Jefferson City, Missouri

Dear Mr. Price:

This is to acknowledge receipt of your recent request for a legal opinion which reads as follows:

"Can a city having a library established and maintained under the library laws of the state, and further, being supported by a library tax rate of one-half (1/2) mill, become a part of a county library district, having a one (1) mill tax rate, under the provisions of section 182.040, R.S. Mo., 1957 Suppl., without first having to equalize its tax rate with that of the county library district to be joined?"

Section 182.040, RSMo 1949, contained the statutory procedure to be followed when a city library district became a part of a county library district prior to enactment of such section (Laws 1955, page 547) and said section read as follows:

"1. After the establishment of a free county library, the board of trustees, common council or other legislative body of any incorporated city or town in the county now or hereafter maintaining a free county library as above mentioned, may after approval of such proposed change by the directors of said free county library, notify the county court that such city or town desires to become a part of the free county library system at the beginning of the next succeeding full fiscal year; and thereafter such city or town shall be a part thereof, and the inhabitants shall be entitled to the benefits of such free county library and the property within

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such city or town shall be liable to taxes levied for free county library purposes; provided, the board of trustees, common council or other legislative body of such city or town, as the case may be, may petition the county court and in all other respects proceedings shall be had, as near as may be, as set forth in section 182.010, and the same rate of tax is had in such city or town as under the free county library system in such county.

"2. The board of trustees, common council or other legislative body, in any such incorporated city or town in a county having made provision for becoming a part of the free county library system as in section 182.010, and in this section provided, may at any time notify the county court that such city or town no longer desires to be a part of the free county library system, and such city or town shall, with the close of the next succeeding full fiscal year, cease to be a part of the free county library system, and the property situated in such city or town shall not thereafter be liable to taxes for free county library purposes; provided, that the board of trustees, common council, or other legislative body of the city or town, as the case may be, shall petition the county court and otherwise like proceedings shall be had, as near as may be, as in the case of becoming a part of the free county library system, and a majority vote is cast accordingly." (Underscoring ours.)

In an opinion of this department written for you on October 15, 1953, among other matters, it was concluded that the underscored proviso of the above quoted section meant there could not be a merger between a city and a county library district unless the tax rates of each district were the same at the time of the merger, consequently, a city library district with a tax rate of only one-half that of a county library district, with which the city district proposed to merge, could not be merged until the city tax rate had first been equalized with that of the county district.

The opinion correctly stated the law at the time it was written, however, it does not now answer the inquiry for the reason the law quoted in said opinion has since been changed by the 68th General Assembly. Section 182.040, RSMo 1949, and other sections of the

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same chapter were repealed by Laws of 1955, page 547. What is now Section 182.040, RSMo Cum. Supp., 1957, was enacted in lieu of Section 182.040, RSMo 1949. Now, Section 182.040 reads as follows:

"After the establishment of a free county library district the legislative body of any incorporated city, town or village in the county which was excluded from the county library district because of the maintenance of a tax supported municipal library established and maintained pursuant to other provisions of this chapter, after approval of the proposed change by the trustees of the free county library district, may become a part of the free county library district by notifying the county court that the municipality desires to become a part of the free county library district at the beginning of the next succeeding full fiscal year; and thereafter the municipality shall be liable for taxes levied for free county library purposes at the same rate as is levied for the free county library district in such county."

Upon comparing new Section 182.040 with former Section 182.040, it is readily seen there have been changes in the latter. The only change with which we are concerned here is with reference to the proviso of former Section 182.040, mentioned above. Said proviso is not found in present Section 182.040, and there are no provisions in said section as were found in the proviso of the former section. Present Section 182.040 does not require a city library district to have the same tax rate as a county library district with which it proposes to merge, nor does the section provide that a city library district with a lesser tax rate than a county library district must first equalize its tax rate with the county tax rate before the two districts can be merged.

In the absence of any such provision of Section 182.040, RSMo Cum. Supp., 1957, the rate of a city library district merging with a county library district is not required to be equalized at the rate of the latter district prior to the merger. The procedure for merger under said section was discussed in our opinion of this department, written for Honorable Charles E. Hansen, prosecuting attorney of Franklin County, on June 18, 1959. A copy of this opinion is enclosed for your consideration.

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After the merger has been effected the municipality shall be liable for taxes levied for free county library purposes at the same rate as that levied for the free county library district.

In view of the foregoing, our answer to your inquiry is in the negative.

Conclusion

Therefore, it is the opinion of this department that when a city library district, with a tax rate of one-half mill, and a county library district, with a tax rate of one mill, are to be merged under the procedure authorized by Section 182.040, RSMo Cum. Supp., 1957, the provision of said section does not require the tax rate of the city district to be first equalized with the rate of the county district before such districts can be merged.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Paul N. Chitwood.

Yours very truly,

John M. Dalton
Attorney General

Enc.
PNC:rw