

February 2, 1965



Honorable Robert Hoelscher
Prosecuting Attorney
Warren County
Warrenton, Missouri 63383

Dear Mr. Hoelscher:

Your recent request for an opinion is in regard to an additional thirty-cent tax levy authorized by the voters of a school district at a special election held in the district on December 11, 1964. The tax book had already been extended by the county clerk and delivered to the county collector before this tax was authorized. You have informed us that there was not sufficient time to prepare a supplemental tax book and issue supplemental tax bills before December 31, 1964.

You ask two questions:

"May we have your opinion as to whether or not the taxpayers may, prior to December 31, 1964, tender to the Collector such additional taxes as may be assessed against them by virtue of the additional 30 cent levy, even though the supplemental tax bill has not been issued to them? In the event it is necessary for the taxpayer to wait until he has received his statement for the additional tax to pay it, will it then be necessary for the Collector to charge penalties and interest?"

A school district tax authorized on December 11, 1964, is a tax increase for the Year 1964, and the county clerk is required to enter this in a supplemental tax book. See Opinion of Attorney General No. 89, to Honorable Donald P. Thomasson, October 7, 1953, which is enclosed.

The county clerk is "to assess and carry out the amount so returned on the tax books of all taxable property, real and personal, of such school district" on receipt of the result of

the special election. Section 165.080, RSMo. There is no time limit specified within which this must be done. However, this must be done within a reasonable time, since the county clerk "on receipt thereof" of the result of the vote shall "proceed to assess and carry out the amount so returned on the tax books . . ." "On receipt thereof" can only be construed to mean that the duty must be performed as soon after receipt as is reasonably possible.

You have informed us that this tax levy will not be placed in a supplemental tax book until after January 1, 1965, since such books have been ordered but will not arrive until after the first of the year.

If the tax is not placed in a supplemental tax book until after January 1, 1965, such tax will not become delinquent until January 1, 1966.

Personal property taxes "become delinquent on the first day of January following the day when said bills are placed in the hands of the collector". Section 140.730 (3), RSMo. Since the tax will not be on the tax books until after January 1, 1965, it follows that the collector will not have the bills in his hands until after January 1, 1965. Thus, the delinquent date for the personal property tax levy authorized by the special election shall be "the first day of January following the day when said bills are placed in the hands of the collector," that is, January 1, 1966.

Real estate taxes which are "unpaid on the first day of January, annually, are delinquent". Section 140.010, RSMo. However, taxes are not unpaid on the first of January if they are not on the tax books before that date. The collector is to make delinquent lists when he is "unable to collect any taxes specified on the tax book". Section 140.030, RSMo. Of course, any taxes not specified on the tax book do not require delinquent lists to be made and are not delinquent taxes under the statutes.

We find nothing in Article X, § 3, Missouri Constitution of 1945, which impels a different result.

Honorable Robert Hoelscher -3-

Your question concerning prepayment of the taxes has become moot since December 31, 1964, has passed and since we have concluded that the taxpayer will not be required to pay penalties and interest until the tax becomes delinquent on the first day of January, 1966.

Very truly yours,

NORMAN H. ANDERSON
Attorney General