

March 27, 1970

Answer by Letter - Boicourt

OPINION LETTER NO. 179

Honorable Donald L. Gann
State Representative
District 146
P. O. Box 302
Ozark, Missouri 65721



Dear Mr. Gann:

This letter is in response to your request for a ruling of this Office on the following question:

Are the residents of an area annexed to a fourth-class city pursuant to an affirmative vote on such annexation by the inhabitants of said city on November 19, 1968, and a subsequent ordinance annexing such territory on March 3, 1969, subject to city taxes for the year 1969?

The authority by which a fourth-class city can annex territory and the procedures to accomplish such purpose are provided by §79.020 RSMo 1959.

The mayor and board of alderman of such city, whether the same shall have been incorporated before becoming a city of the fourth class or not, with the consent of a majority of the legal voters of such city voting at an election therefor, shall have power to extend the limits of the city over territory adjacent thereto, and to diminish the limits of the city by excluding territory therefrom, and shall, in every case, have power, with the consent of the legal voters as aforesaid, to extend or diminish

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the city limits in such manner as in their judgment and discretion may redound to the benefit of the city; provided, that such election shall be held in accordance with the provision of chapter 111, RSMo 1949, and the same shall be held upon such notice and at such time and place, and the judges and clerks therefor shall be appointed and shall make their returns of the same in such manner as may be prescribed by ordinance or resolution of such city.

We have concluded the annexed area referred to in your opinion request is subject to 1969 city taxes. This result we believe to be valid whether one considers the effective date of annexation to be at the time of the affirmative vote of November 19, 1963, or when the ordinance of acceptance was adopted on March 3, 1969. In regard to the latter possibility, we refer you to Long v. City of Independence, 229 S.W.2d 686 (Mo. 1950). That case, which concerned an annexation to a third-class city, held that a city had the authority to levy taxes on property annexed to said city after January 1 of the tax year but before the official assessment books were completed (loc. cit. 689).

Therefore, in answer to your inquiry, territory annexed to a fourth-class city before the official assessment books for a certain tax year are completed, is subject to city taxes for that year.

Yours very truly,

JOHN C. DANFORTH
Attorney General