

CONSOLIDATED SCHOOL DISTRICTS:

Back taxes collected after disorganization of consolidated school district should go to the original districts or to the districts formed in proportion to the area, assessment and the amount paid in by each district, or same may be settled by an interplea by each district for the amount contended for.

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June 8, 1937

Honorable Richard C. Ashby  
Prosecuting Attorney  
Chillicothe, Missouri



Dear Sir:

This Department is in receipt of your letter of May 26, wherein you request an opinion on the following situation relative to a consolidated school district which has now been dissolved or disorganized. You set forth the facts as follows:

"The County Treasurer of Livingston County has asked that I obtain a written opinion from you upon a question involving back taxes, which came into his office, subsequent to the dissolution of the consolidated school district.

"The facts are these: Several school districts in Sampsel Township had consolidated into a consolidated school district, located at Sampsel, Missouri. Thereafter I believe the date was in 1933, or the early part of 1934 the consolidated school district was dissolved. From the date of dissolution to the present date, there has accumulated in the office of the County Treasurer, the sum of one thousand, three hundred and eighty nine dollars (\$1,389) in back taxes of this consolidated school district, which was dissolved in 1933.

"The question involved is this - in what manner shall the County Treasurer disburse this money?

"I would appreciate your opinion on how the back taxes of this consolidated district should be disbursed according to law. Also, whether in your opinion it would not be wise for the County Treasurer to pay the money into the County Court and interplead the several school districts. I would appreciate your prompt attention, as the residents of these school districts are demanding some action. "

We have searched the statutes carefully and diligently in an effort to determine the manner of disposition of the money derived from back taxes. We are unable to determine any guide in the statutes. School districts and their officers are creatures of the statutes and their powers and duties are derived solely from the statutes.

In the absence of statutory authority, we must attempt to arrive at a practical and logical conclusion as to the disposition of the sum of \$1,389.00 in back taxes now on hand from the former consolidated school district.

Section 9345, Revised Statutes Missouri 1929, relates to the formation of consolidated school districts and requires three or more common school districts, or a village district having less than 200 children of school age by the last enumeration, together with two or more adjoining districts, before complete consolidation can be consummated. Other statutes refer to the procedure. Section 9356 refers to the property of the various districts which have become consolidated. The last sentence of said section being as follows:

"The division of property and money on hand in case school districts are divided by the formation of any consolidated district shall be governed by sections 9278 and 9279."

Sections 9278 and 9279 refer, respectively, to the division of property when a new district is created and the valuation of the property and how it is to be divided.

In the decision of *Rice v. McClelland*, 58 Mo. 116, it was held that:

"When a tax is levied it must be collected and paid into the treasury to the credit of the particular district for which it was levied, and any claim for such taxes by a district thereafter organized must be settled under the provisions of Section 7279."

In the decision of *State v. Scott*, 307 Mo. 250, it was held that all the provisions relating to changes of boundary lines and division of property of common school districts shall apply to towns, cities and consolidated districts.

Section 9331, amended in 1931, Laws of Missouri 1931, page 350, deals with the disorganization and dissolution of a consolidated school district. The last portion of said section is as follows:

"\* \* if two-thirds of the resident voters and taxpayers of such school district present and voting, shall vote to dissolve such town, city or consolidated school district, then from and after that date the said town, city or consolidated school district shall be dissolved, and the same territory included in said school district may be organized into a common school district under article 3 of this chapter."

Section 9332 refers to the manner of discharging liabilities of a consolidated school district after

the district has been dissolved or disorganized. We herewith quote the section in full, for the reasons which will hereinafter be mentioned:

"Whenever any town, city, or consolidated school district heretofore or hereafter organized under the laws of the state of Missouri, shall have been or may hereafter be disorganized or abolished, and such district shall, at the time of disorganization or dissolution, have any bonds or other obligations outstanding and unpaid, it shall be the duty of the county superintendent of public schools of the county, or in case such district embraced territory in two or more counties, then of the superintendent of public schools of the county theretofore having the largest number of acres of land in the district, on or before the first day of May of each year, to ascertain and certify to the county court, or courts, as the case may be, the rate of taxation necessary to be levied upon the taxable property within the former corporate limits or boundary line of such district, sufficient to pay the interest on and the principal of bonds falling due during the succeeding year. It shall be the duty of the county court of such county or counties, upon receipt of such certificate and at the time it is required by law to determine and levy the rate of taxation for county, school, road and other taxes, to make an order levying the rate of taxation so certified by the county superintendent of public schools upon the taxable property within the former corporate limits or

boundary lines of the district, and it shall be the duty of the clerk of the county court or courts at the time he makes up the county tax books to extend therein such rate of taxation against such property, and when so extended it shall be the duty of the collector of the revenue of such county or counties, at the time he demands and collects other taxes, to demand and collect the taxes herein required to be levied, and when so collected the same shall be paid to the county treasurer of the county which had the largest number of acres of land in the disorganized district, and thereupon such county treasurer shall deposit the moneys received by him in the bank, trust company, or other place where the principal and interest of the bonds of the district are payable."

Bearing in mind that your question presents the problem of assets rather than liabilities, as referred to in the above section, yet, we think that said section 9332, at least though more pertinent to your question, throws some light on the disposition that should be made of the delinquent taxes. In the first instance, a consolidated district is composed of a number of lesser districts, and when dissolved the lesser or former districts again come into existence if re-organized under Article III of Chapter 57.

In the original consolidation the assets and liabilities of the former rural districts are assumed by the consolidated district, then, by the same logic, should not the assets be returned to the district after dissolution of the consolidated district.

The question next arises in what manner should the distribution be made.

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Under Section 9332 the manner of assuming liabilities after disorganization is set forth and we think that the same should be followed in distributing the money now on hand derived from back taxes. It would appear that the districts involved should be able to determine or settle the amount of percentage each district should receive, based on area, the amount of taxes paid in, enumeration, etc. Failing in this method, we agree with your suggestions that a practical way to settle the dispute would be for each district to interplea for the fund or to contend for its rightful percentage. It would appear that the Legislature has been remiss in its duty to pass statutes covering the situation which you present.

Respectfully submitted,

OLLIVER W. NOLEN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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