

TAXATION - County Courts may compromise back taxes when value of land appears less than amount of taxes due.

11-27

November 18, 1940

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Hon. Roy Coyne  
Prosecuting Attorney  
Jasper County  
Joplin, Missouri

Dear Sir:

We are in receipt of your request for an opinion under date of November 13, 1940, in which you inquire as to the powers of the County Court of Jasper County, Missouri, to compromise taxes under Section 9950 R. S. Missouri, 1929, as amended by Laws of Missouri, 1933, P. 427.

Section 9950 Laws of Missouri, 1933, P. 427, is as follows -

"Whenever it shall appear to any county court, or if in such cities the register, city clerk or other proper officer, that any tract of land or town lot contained in said 'back tax book' or recorded list of delinquent land and lots in the collector's office is not worth the amount of taxes, interest and cost due thereon, as charged in said 'back tax book' or recorded list of delinquent land and lots in the collector's office, or that the same would not sell for the amount of such taxes, interest and cost, it shall be lawful for the

said court, or if in such cities the register, city clerk or other proper officer, to compromise said taxes with the owner of said tract or lot, and upon payment to the collector of the amount agreed upon, a certificate of redemption shall be issued under the seal of the court or other proper officer, which shall have the effect to release said lands from the lien of the state and all taxes due thereon, as charged on said 'back tax book' or recorded list of delinquent land and lots in the collector's office; and in case said court or other proper officer shall compromise and accept a less amount than shall appear to be due on any tract of land or town lot, as charged on said 'back tax book' or recorded list of delinquent land and lots in the collector's office, it shall be the duty of said court or other proper officer to order the amount so paid to be distributed to the various funds to which said taxes are due, in proportion as the amount received bears to the whole amount charged against such tract or lot."

A search of the decisions concerning this section reveals that it has been mentioned by the Courts of

this State twice in decisions and then only incidentally. In State ex rel Karbe et al v. Bader et al, 78 S. W. (2d) 835 it was mentioned as being a part of Senate Bill 94, passed by the Legislature in 1933, and the validity of the entire bill was upheld by the Supreme Court. It was again casually mentioned in State ex rel v. Nolte, 138 S. W. (2d) 1016.

We believe, however, that the statute itself is clear and unambiguous, and under it the County Court has the right to compromise delinquent taxes on lands within its County if it appears : (1) that the market value of the land is not as much as the amount of back taxes, interest, costs and penalties charged against it, or, (2) that at a tax sale the land would not sell for the amount of such taxes, interest, costs and penalties. Since a County Court may speak through its records only, one or the other of the above findings must be made, and such finding must appear of record in the Court's order compromising the taxes. The order should also contain the amount fixed to be paid in full satisfaction of such delinquent taxes, and the collector should be ordered to issue a certificate of redemption of receipt of the amount fixed in the Court's order to the taxpayer with whom the compromise is made. The decree should also contain an order to the collector requiring him to apportion the sum received by way of compromise to the various funds to which the original taxes were due, in proportion as the amount received bears to the whole amount charged against the land.

#### CONCLUSION.

It is the opinion of this department that a decree of the County Court containing the above re-

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quirements is a valid method by which a compromise  
of back taxes may be made.

Respectfully submitted,

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APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney General.

RLH:RW