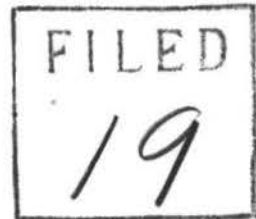


TAXATION:  
SUCCESSOR TRUSTEE:

In case of death, resignation or removal of trustee appointed under Jones-Munger Act, successor trustee takes trusteeship without any conveyance from original trustee and takes title to all properties acquired under authority of Section 11131, R. S. Mo. 1939.

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February 2, 1943



Mr. Maurice W. Covert  
Prosecuting Attorney  
Texas County  
Houston, Missouri

Dear Sir:

This is in reply to your letter of January 26th, 1943, in which you request an opinion from this department on the following question:

"In the sales of land for taxes the law provides, as you well know, that on the third sale the land may be bid in in trust for the various funds for which the taxes were levied. Section 11131 seems to be the only Section which controls the procedure of selling land in trust for the various funds and seems to contemplate that a person shall be appointed trustee for the purpose of taking the Title. The present Trustee in Texas County plans to resign and a new Trustee will be appointed. In the past few years this Trustee has taken the Title to the land at the sales in his name with the word 'Trustee' after his name. The law seems to be vague as to the exact procedure in a matter of this sort and I would like to have the benefit of your opinion as to whether or not the old Trustee should make a transfer to the County or

to the successor Trustee of all the land now in his name or whether, in your opinion, the Title would naturally pass to the new Trustee by virtue of his appointment without any record transfer of the Title. Another point I would like you to consider in answering this inquiry would be whether or not the old Trustee would retain Title and jurisdiction over the land now in his name and the new Trustee would become connected only with the land sold to him after his appointment."

The provisions of Section 11131, R. S. Mo. 1939, are applicable to your question, and the portion of said section pertinent to your question reads as follows:

"It shall be lawful for the County Court of any County, and the Comptroller, Mayor and President of the Board of Assessors of the City of St. Louis, to designate and appoint a suitable person or persons with discretionary authority to bid at all sales to which Section 11130 is applicable, and to purchase at such sales all lands or lots necessary to protect all taxes due and owing and prevent their loss to the taxing authorities involved from inadequate bids. Such person or persons so designated are hereby declared as to such purchases and as title holders pursuant to collector's deeds issued on such purchases, to be trustees for the benefit of all funds entitled to participate in the taxes against all such lands or lots so sold. Such person or persons so designated shall not be required to pay the amount bid on any such purchase but the collector's deed issuing on such purchase shall recite the delinquent

taxes for which said lands or lots were sold, the amount due each respective taxing authority involved, and that the grantee in such deed or deeds holds title as trustee for the use and benefit of the fund or funds entitled to the payment of the taxes for which said lands or lots were sold. The costs of all collectors' deeds, the recording of same and the advertisement of such lands or lots, shall be paid out of the county treasury in the respective counties and such fund as may be designated therefor by the authorities of the City of St. Louis. All lands or lots so purchased shall be sold and deeds ordered executed and delivered by such trustees upon order of the County Court of the respective counties and the Comptroller, Mayor and President of the Board of Assessors of the City of St. Louis, and the proceeds of such sales shall be applied, first, to the payment of the costs incurred and advanced, and the balance shall be distributed pro rata to the funds entitled to receive the taxes on the lands or lots so disposed of. Upon appointment of any such person or persons to act as trustee as herein designated a certified copy of the order making such appointment shall be delivered to the Collector, and if such authority be revoked a certified copy of the revoking order shall also be delivered to the Collector. Compensation to trustees as herein designated shall be payable solely from proceeds derived from the sale of lands purchased by them as such trustees and shall be fixed by the authorities hereinbefore designated, but not in excess of ten percent (10%) of the price for which any such lands and lots are sold by the trustees: \* \* \* \* \*

It will be noted that no provision is made in this statute for the appointment of a successor trustee. Although the statute does provide that if the authority granted under the appointment is revoked that a certified copy of the revoking order shall be delivered to the collector. By implication this language would indicate that the county court was empowered to revoke the appointment of a trustee.

It will also be noted that the trustee appointed under this act has no authority to convey the lands purchased at tax sales without an order of the county court. By this we may infer that the trusteeship is really vested in the county court and that the person named is only a nominal trustee.

We find no cases in this state on the point which you have submitted, that is, in case of a change of trusteeship does the original trustee have such an estate in the trust property that he is required to execute a deed of conveyance to his successor. We think the rule announced in 65 C. J., page 636, Section 497, would be applicable under our statute, that is, "there is authority holding broadly that on appointment of a new trustee, title to the trust property vests in him by virtue of the appointment, and without necessity of a formal conveyance." Since our statute is somewhat indefinite on this question it is a question which should be settled by the Legislature. However, we think there may be enough implied from this statute as it is to support our conclusion.

#### CONCLUSION

From the foregoing it is the opinion of this department that the title to a trustee appointed by the county court under Section 11131, R. S. Mo. 1939, would pass to a new, or substitute trustee and without a conveyance from the original trustee.

We are further of the opinion that the successor trustee would take title to all trust property held by the original

Mr. Maurice W. Covert

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2-2-43

trustee under authority of Section 11131, supra.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney-General

APPROVED:

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ROY McKITTRICK  
Attorney-General

TWB:CP