

- TAXATION:
1. Redemption, after two years, from a certificate issued in 1938, is passed upon by a former opinion.
 2. Interest at the rate designated by a collector in a certificate of title shall run from the date of issuance of such certificate for a period of two years and six months thereafter.

March 10, 1942

Mr. Stanley Creed
Collector, Callaway County
Fulton, Missouri

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Dear Mr. Creed:



This is an acknowledgment of your request for an opinion under the Jones-Munger Law and addressed to the General on March 4, 1942, which is as follows:

"Would you kindly give your opinion on a matter that came up in this office recently.

If a party buy's property in the 1938, land sale and as yet has not demanded a deed for this property, can the party who this property was assessed to redeem it even though the two years redemption period is up? If so what percent should be charged and over what period of time?

Should the percent be charged on the full length of time or just two years?"

I

The right of an owner of real estate to redeem property sold under the provisions of the Jones-Munger Law and the period in which he may redeem such property, was passed upon by this department in an opinion rendered to Mr. W. H. Carney, collector within and for Phelps County, on August 28, 1941, which, in conclusion, held:

"Therefore, there being no statutory provision defining the property rights of a holder of a certificate of purchase, it seems that the rule is that, until the delivery of a deed, he takes

neither a legal nor an equitable title in and to the land.

Therefore, until the delivery of such deed the owner would have the right of redemption in the manner provided by the statutes relating to such subject."

The above conclusion was based upon the decision of the Supreme Court in the case of Hilton v. Smith, 134 Mo., 499, 509. In the case of City of St. Louis v. Baumann, 153 S. W. 2d, 31, 34, such court modified the Hilton decision but only with respect to the office of a certificate of title, holding that, after the redemption period, such certificate conveyed an equitable title rather than a mere naked interest. A copy of said opinion is enclosed.

II

Section 11133 R. S. Mo., 1939, is in part as follows:

"After payment shall have been made the county collector shall give the purchaser a certificate in writing, to be designated as a certificate of purchase, which shall carry a numerical number and which shall describe the land so purchased, each tract or lot separately stated, the total amount of the tax, with penalty, interest and costs, and the year or years of delinquency for which said lands or lots were sold, separately stated, and the aggregate of all such taxes, penalty, interest and costs, and the sum bid on each tract.*
* * * * * Such certificate of purchase shall also contain the true date of the sale and the time when the purchaser will be entitled to a deed for said land, if not redeemed as in this law provided, and the rate of interest that such certificate of purchase shall bear, which rate of interest shall not

exceed the sum of ten per cent per annum" (Underscoring ours.)

Section 11145 R. S. Mo., 1939, is in part as follows:

" * * * * together with interest at the rate specified in such certificate, not to exceed ten per centum annually, * * * * *
In case the party purchasing said land, his heirs or assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the two years next following the date of sale, no interest shall be charged or collected from the redemptioner after that time."
(Underscoring ours.)

Under the provisions of section 11133, supra, a certificate of purchase shall be issued by the collector with designated interest and such certificate shall bear interest from the date of the issuance thereof not to exceed ten per cent per annum.

Section 11145, supra, provides that unless a tax deed is obtained "for the land so purchased within six months after the expiration of the two years next following the date of sale, no interest shall be charged or collected from the redemptioner after that time."

CONCLUSION

Therefore, the collector shall designate in the face of the certificate interest at a specified rate not to exceed ten per cent per annum.

Mr. Stanley Creed

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March 10, 1942

Such interest , in the absence of the redemption by parties entitled to redemption and, in the absence of delivery of a deed to a certificate holder within six months after the expiration of the redemption period of two years, shall continue to run until the expiration of said two years and six months from the date of the execution and delivery of the certificate of purchase and no longer.

Respectfully submitted,

S. V. MEDLING
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

SVM:FS
Enc.