

TAXATION: Back tax collections apportioned to respective funds for which originally assessed and levied, and unpaid warrants drawn against same, have priority of payment.

5-2

April 30, 1935.



Hon. W. Ed. Jameson
President Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Mr. Jameson:

This is to acknowledge your letter as follows:

"It has been brought to my attention several times that the County Courts claim the only money they are entitled to pay under the new budget law on old accounts is such 1935 funds as might be unexpended at the end of the year. There is a lot of back taxes due in all these counties, and there should be some way it would seem to me that the taxes collected on any year prior to 1935 should be 'ear-marked' and held for the payment of these old accounts.

I would like to have the viewpoint of your department in this matter."

On January 18th, 1934, this Department rendered an opinion to Honorable Edward Cusick, Pulaski County, which we believe answers the question asked in your letter. Copy is hereto attached. We invite your attention to the following found in said opinion:

"We shall predicate our remarks respecting your inquiry upon the following statement to-wit, back taxes are in no event to be considered as differing essentially from

current taxes in that their constituent parts lose their identity upon becoming delinquent. * * * They are still levied and assessed for the purposes set out and the County Court has incurred obligations chargeable to the respective funds in anticipation of the collection of these taxes."

And further,

"It is therefore the opinion of this office that back taxes, when collected, should be accounted for by the county collector as other funds and should be apportioned by the proper officer to the various funds for which the same are levied and collected."

We also direct your attention to Section 12139, R. S. Mo. 1929, which provides as follows:

"He shall procure and keep a well-bound book, in which he shall make an entry of all warrants presented to him for payment, which shall have been legally drawn for money by the county court of the county of which he is the treasurer stating correctly the date, amount, number, in whose favor drawn, by whom presented, and the date the same was presented; and all warrants so presented shall be paid out of the funds mentioned in such warrants, and in the order in which they shall be presented for payment: Provided, however, that no warrant issued on account of any debt incurred by any county other than those issued on account of the ordinary and usual expenses of the county, shall be paid until all warrants issued for money due from the county on account of services that are usual, and for all

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expenses necessary to maintain the county organization for any one year, shall have been fully paid and liquidated." (Underscoring ours)

From the above and foregoing it is our opinion that when delinquent taxes are paid such shall be apportioned to the respective funds for which they were originally assessed and levied; and unpaid warrants drawn against these respective funds, for which the taxes were assessed and levied, shall have priority of payment.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

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Attorney-General

JLH:
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Enc.