

**TAXATION AND:  
REVENUE :**

1. Trustee has right to bid less than amount of taxes and cost.
2. Court may order land sold for less than taxes and costs.
3. Purchase by trustee does not affect subsequent assessment and levy.
4. Deed indexed grantor by Collector to trustee.
5. State Tax Commission has prescribed and promulgated forms.

February 23, 1940.

Mr. L. C. Kirkman  
Office of the County Court Clerk  
Texas County  
Houston, Missouri



Dear Mr. Kirkman:

We desire to acknowledge receipt of your request for an opinion dated February 19, 1940, which is as follows:

"I was appointed Trustee by the County Court of Texas Co. on Nov. 6th to buy tax lands and we are unable to understand the law on the proceedings and would like you to give me the following information, and anything further that will be of benefit to us.

"1. Does the Trustee have a right to bid less than the amount of taxes and cost; when in his judgment the land is not worth said amount.

"2. In case the Trustee has an offer of sale for an amount less than the taxes and cost has the court authority to order the land sold.

"3. Can the court withhold this land from taxation as most of the land that the counties are buying is cut over lands and you nor no one can afford to pay the taxes on these tracts for five years for them at their present rate of taxation.

"4. Is there a statute (if not should be) allowing the county to buy this land in and withhold from taxation for

a number of years, same as the Governor is doing. In twenty years from now the timber on these lands would pay a dividend to the several funds, 95% of these lands have paid no taxes for twenty or thirty years, have been sold for taxes party buying cut or all the timber and never pay any taxes same would be resold and too, then on the real estate income who buy forty or eighty for \$10.00 or \$15.00 and trade it off to some poor fellow in Iowa or elsewhere for \$25.00 or \$50.00 per month say for \$150.00 or \$200.00 and when the fellow pays up if he ever does he could not raise a fight on it. Most of our third sales since the enactment of this law have brought from \$2.75 to \$10.00. Under the County System we can realize in most cases about 1/3% of actual cost, if and when we can sell. All lands are entirely assessed too high.

5. Our recorder and his atty. (which are republicans) and can't agree on the way these deeds should be indexed. I contend that same should be indexed from the name that appears on the tax record as grantor and also by collector to trustee and they hold the name of collector is sufficient.

6. Also in the deed Form 778, which I think you will change when you have time to study same, there appears two places headed. Timber and amount (I hold the 1st appearance are for the actual funds as they appear on the tax books and the one after the recital state for which said real estate is sold, I contend in this second space should be as follows. Say taxes and costs \$174.90 I as trustee for a county bid \$40.00. I think this second space should have

these funds pro rated, same as if I had bought this land for myself.

"Please give me this and any other information that you have that will help us out in our sale of lands and in handling this in accordance with the meaning of the law."

1. In answer to this request, we are enclosing an opinion rendered by this department to Honorable John W. Mitchell, Assistant Prosecuting Attorney of Buchanan County on February 23, 1940.
2. In answer to this request, we are enclosing an opinion rendered by this department to Honorable F. Hiram McLaughlin, Prosecuting Attorney of Greene County on December 20, 1939.
3. In answer to this request, we are enclosing an opinion rendered by this department to Honorable Maurice Hoffman, Prosecuting Attorney of Buchanan County on February 16, 1939.
4. In answer to this request, we refer you to the above opinion rendered to Mr. Hoffman.
5. Section 11549 R. S. Missouri 1929, is as follows:

"When any instrument of writing conveying or affecting real estate authorized by law to be recorded shall be filed in the recorder's office for record, the recorder shall enter the same in the names of the grantors and grantees in both parts of the abstract and index of deeds, filling each appropriate column with the several items contained in such instrument in alphabetical order, in the names of the grantors and grantees; and if the instrument be made by the sheriff, in the name of the sheriff, and the defendant in the execution, or of

the person whose land is sold, and of the grantee; and if made by an executor or administrator, in the name of the executor or administrator, and of the testator or intestate, and of the grantee; and if by attorney, in the name of such attorney and of his constituent and of the grantee; and if by a commissioner, in the name of such commissioner, and of the person whose land is sold, and of the grantee. \* \* \* "

Section 9957a, Laws of Missouri 1933 at page 438 is, in part, as follows:

"If no person shall redeem the lands sold for taxes within two years from the sale, at the expiration thereof, and on production of certificate of purchase, and in case the certificate covers only a part of a tract or lot of land, then accompanied with a survey or description of such part, made by the county surveyor, the collector of the county in which the sale of such lands took place shall execute to the purchaser, his heirs or assigns, in the name of the state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however to all claims thereon for unpaid taxes except such unpaid taxes existing at time of the purchase of said lands and the lien for which taxes was inferior to the lien for taxes for which said tract or lot of land was sold. \* \* \* "

Section 9957a, supra, provides for the execution and recording of deeds for the sale of land and lots for de-

linquent taxes on real estate but makes no provision for indexing such deeds. Senate Bill No. 311 of the 1939 laws, makes no provision for the indexing of deeds provided therein.

Therefore, as to the procedure of indexing such deeds we may only look to the provisions of Section 11549, supra, a general law of 1929 Revised Statutes relating to the recording and indexing of deeds.

The general provision of said statute with reference to the indexing of deeds is that they be indexed in the names "of grantors and grantees".

The grantor was therefore, of course, the record owner and the grantee, the trustee who was empowered to buy land by Senate Bill No. 311, supra. The Collector, in making such sale, could not be considered a grantor but rather a statutory officer vested with lawful authority to sell and convey the title of the grantor in the enforcement of the general delinquent tax lien for taxes.

In this the statute is clear and unambiguous. In the case of State ex rel. Cobb v. Thompson, 319 Mo. 492, 496, the court, in laying down a rule on this point, says:

"A statute is not to be read as if open to construction as a matter of course. It is only in the case of ambiguous statutes of uncertain meaning that the rules of construction can have any application. Where the language of a statute is plain and unambiguous and its meaning clear and unmistakable, there is no room for construction and the courts are not permitted to search for its meaning beyond the statute itself." (25 R. C. L. 957; Trefny v. Eichenseer, 171 S. W. 1. c. 932; Grier v. Ry., 286 Mo. 523, 1. c. 534, 228 S. W. 454; State ex rel. v. Board of Education, 294 Mo. 106, 1. c. 115, 242 S. W. 85; R. S. 1919, sec. 7058.)"

Mr. L. C. Kirkman

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February 23, 1940.

CONCLUSION

Therefore, the deed to the trustee should be indexed in the name of record owner as grantor and trustee as grantee.

6. The Statute provides that the State Tax Commission "prescribe the form of all blanks and books that are used by the various revenue officers of this state." Said commission has prescribed and promulgated the forms required by Senate Bill No. 311, Laws of Missouri 1939, at page 850, and we see no reason why they should be changed.

Very truly yours,

S. V. MEDLING  
Assistant Attorney General

APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney-General

SVM:LB  
Encls.