

SCHOOLS: Apportionment of railroad taxes received by school districts should be divided according to levies made by the school district for the various funds.

February 4, 1938



Mr. W. J. Melton
Presiding Judge
Mississippi County
Anniston, Missouri

Dear Sir:

This Department acknowledges receipt of your letter of January 28th, wherein you make the following request for an opinion:

"In apportionment of Railroad taxes received out to School Districts, should all of this money go in the teachers funds, where the District has bonded indebtedness for school buildings, and levy a tax for that purpose, or should it be divided accordingly to the levies made by these districts."

Section 10029, R. S. Mo. 1929, relates to the taxation of railroads and street car companies. For convenience we refer to pertinent parts of the section as follows:

"For the purpose of levying school taxes, and taxes for the erection of public buildings, and for other purposes, in the several counties of this state, on the roadbed, rolling stock and movable property of railroads in this state, the several county courts shall ascertain from the returns in the office of the county clerk the average rate of taxation levied for school purposes, and also the average rate of

taxation levied for the erection of public buildings, and for other purposes, each separately, by the several local school boards or authorities of the several school districts throughout the county. Such average rate for school purposes shall be ascertained by adding together the local rates of the several school districts in the county, and by dividing the sum thus obtained by the whole number of districts levying a tax for school purposes, and shall cause to be charged to said railroad companies taxes for school purposes at said average rate on the proportionate value of said railroad property so certified to the county court by the state auditor, under the provisions of this article, and the said clerk shall apportion the said taxes for school purposes, so levied and collected, among all the school districts in his county, in proportion to the enumeration returns of said districts. Such average rate levied for the erection of public buildings, and for other purposes, shall be ascertained, each separately, by adding together the local rates of the several districts in the county levying a tax for the erection of public buildings, or for other purposes, and by dividing the sum thus obtained in each case by the whole number of districts in such county; and the clerk shall cause to be charged to said railroad companies taxes for the erection of public buildings or for other purposes, at said average rate on the proportionate value of said railroad property so certified to the county court by the state auditor, under the provisions of this article, and the county court shall apportion the said taxes for the erection of public buildings, or for other purposes

so levied and collected, among the several school districts levying such taxes, in proportion to the amount of such taxes so levied in each of said districts: * * * *"

By the terms of Section 9199, R. S. Mo. 1929, it becomes the duty of the board to provide for the collection of an annual tax to pay the interest in the sinking fund on bonds which constitute an indebtedness of the district. You state in your letter the district in question has a bonded indebtedness and has levied a tax for that purpose; hence, that portion of Section 10029, heretofore quoted, relating to the taxation of railroads for the erection of public buildings, should be considered. Under Section 9261, R. S. Mo. 1929, and by the terms of Section 9312, R. S. Mo. 1929, the three funds of a district are the "teachers' fund," the "incidental fund," and the "building fund."

Section 10029, supra, refers to the levying of school taxes for the erection of public buildings and for other purposes. Clearly, the intention of the Legislature in dealing and referring to public buildings of a school district in said section, when it states,

"and the county court shall apportion the said taxes for the erection of public buildings, or for other purposes so levied and collected, among the several school districts levying such taxes, in proportion to the amount of said taxes so levied in each of said districts,"

was to the effect that upon the district receiving money from railroads, when such levies have been made, the said funds so received should be placed to the credit of the three funds.

Mr. W. J. Melton

-4-

Feb. 4, 1938

We are, therefore, of the opinion that the amount of railroad taxes received by the district in question, which have been levied for building purposes, should be placed to the credit of the building fund and not all of the money received by the district should go into the teachers' fund; that the taxes so received should be divided according to the levies made by the school district for the various funds.

Yours very truly

OLLIVER W. NOLEN
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

OWN:EG