

STATE TREASURER: ESCHEATS:

State Treasurer has no authority to receive intangible personal property which has escheated to the State.

1-14
January 8, 1935

Honorable Richard R. Nacy
State Treasurer
Jefferson City
Missouri



Dear Mr. Nacy:

Receipt of your letter dated January 7, 1935 is acknowledged. Your letter follows:

"I am enclosing herewith letter from Mr. B. C. Howard, Attorney, of Kansas City, Missouri, in accordance with our telephone conversation of this date.

Will you kindly return the letter along with your opinion."

The letter inclosed from Mr. B. C. Howard is as follows:

"I am representing an estate, in which the present whereabouts of one of the heirs is unknown, and it may become necessary to turn over his share of said estate to the State Treasurer, and in connection therewith will suggest that the missing heir's share will consist of some cash and certificates of stock in a number of different corporations.

I would, therefore, be glad if you would advise me as to what name the shares of stock shall be issued in,

should it become necessary to turn the same over to the State Treasurer.

I would also be glad if you would advise me as to whether the State Treasurer would hold the stock and receive the dividends thereon and otherwise exercise control over the same during the period it is held by the state of Missouri, and also whether the state will account to the heir for the income derived therefrom."

While the letter inclosed by you does not appear to present a problem confronting you at the present, yet we will answer the same as if it did.

Section 620 Revised Statutes Missouri 1929, in part provides:

"If any person die intestate, seized of any real or personal property, leaving no heirs or representatives capable of inheriting the same; or, if upon final settlement of an executor or administrator there is a balance in his hands belonging to some legatee or distributee, who is a non resident, or who is not in a situation to receive the same and give a discharge thereof or who does not appear by himself or agent to claim and receive the same* * * * in each and every such instance such real and personal estate shall escheat and vest in the state, subject to and in accordance with the provisions of this chapter."

Section 621 provides as follows:

"Within one year after the final settlement of any executor or administrator, assignee, sheriff or receiver, all moneys in his hands unpaid or unclaimed, as provided in section 620, shall, upon the order of the court in which such settlement is made, be paid into the state treasury. And the state treasurer shall issue to him a duplicate receipt therefor, one of which shall be filed with the state auditor, who shall credit him with the amount thereof and charge the state treasurer therewith. All such moneys so received into the state treasury shall be credited into a fund, to be known and designated as 'escheats'."

Section 622 provides that if said moneys, as aforesaid, are not paid into the state treasury the prosecuting attorney of the county may move for judgment against the administrator or executor on account thereof.

Section 623 provides that within twenty-one years after any money has been paid into the state treasury by an executor or administrator any person who appears and claims the same may file his petition therefor and praying that the money be paid to him.

Section 624 provides that if the court finds that such person is entitled to any money so paid into the state treasury it shall order a warrant to issue for the amount of the claim.

Section 639 provides for the sale of real estate under the order of circuit court when such real estate may have escheated to the state. Section 642 provides as follows:

"All moneys paid into the state treasury under the provisions of this chapter, after remaining therein unclaimed for twenty-one years, shall escheat and vest absolutely in the state and be, on the order of the board of fund commissioners, transferred to the

public school fund."

Section 620, above quoted from, provides that personal property, under the circumstances set out, shall escheat and vest in the state, but neither in section 620 nor in any other section of Article I of Chapter 3 is it provided what state officer or representative of the state shall receive and hold such personal estate, unless the personal estate consists of money, then under section 621 the money shall be paid into the state treasury and credited into a fund to be known and designated as "escheats". Personal property mentioned in section 620 not only includes money and other tangible personal property but intangible personal property as well, such as stocks, bonds, promissory notes and such like. It appears from the letter of Mr. Howard that a portion of the personal property that may escheat to the state consists of certificates of stock. Not only is no one designated to accept intangible personal property for and on behalf of the state, nor is there any provision in Article I of Chapter 3 authorizing the sale and conversion of same into cash when such personal property shall have escheated to the state. All of the sections above mentioned, except those dealing with escheated real estate, have to do with the receipt by the state treasurer of moneys; for the payment of moneys out of the state treasury and such sections do not contemplate any other character of personal property than money.

Section 11388 provides that:

"A separate department is hereby established, to be known as the treasury department, which shall embrace the offices of state treasurer and state auditor."

Section 11425 in part provides:

"The state treasurer shall receive and keep, as provided by law, all the moneys of the state

not expressly required by law
to be received and kept by
some other person * * * * *."

Nothing is said in the last foregoing section about receiving any other personal property than money. In the absence of express statutory authority to receive and sell property belonging to the state, we do not believe the state treasurer would have such authority, and we find no such authority in the statutory laws of this state.

CONCLUSION.

We are of the opinion that the State Treasurer of Missouri has no authority to receive the intangible personal property mentioned in the letter attached to your letter if, as and when the same escheats to the State of Missouri.

We are further of the opinion that the administrator or executor of the estate involved should procure a proper order from the probate court wherein such estate is being administered, and sell such intangible personal property so that the proceeds thereof may be paid into the state treasury.

Yours very truly,

GILBERT LAMB
Assistant Attorney General

APPROVED:

ROY McKIPTRICK
Attorney General

GL:LC