

RE; County Collector must collect penalties on delinquent taxes, and County Court has no authority to remit the penalties on taxes and school districts have no power to remit penalties on delinquent taxes.

January 12, 1933

FILED  
88.

Mr. Walter G. Stillwell,  
Prosecuting Attorney  
Marion County,  
Hannibal, Missouri.

Dear Sir:-

Your letter of January 10th, 1933 contains the following four propositions:

1st.--"Is it legal for the County Court at a special meeting called for this particular purpose to promulgate and order remitting all fines and penalties on back taxes for a limited period of time."

In answer to proposition No. 1, Section 3 of Article X provides that taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.

It would appear that the collection of penalties from some tax payers and not from others would be violative of this Section. The Collector of Revenue is required by law, to collect the penalties thereon, Section 9914, R.S. Mo. 1929, and upon his failure to do so is liable to the penalties provided for in Section 9928, R.S. Mo. 1929. Such penalties become revenue, and for every failure of the Collector to deposit the revenue, additional penalties are provided. Sections 9931 and 9933, R. S. Mo. 1929.

Under these statutes, it is the plain duty of the Collector to collect and account for such penalty, and for his failure to do so, may be charged with a misdemeanor. Section 9950, R.S. Mo. 1929.

There is no provision of law authorizing the County Court or any other body or person to abate or remit taxes or penalties. The only power of compromise vested in the County Court is contained in Section 9950 R.S. Mo. 1929, and then as a condition precedent to the exercise of such power it must appear to the County Court that the land in question is not worth the amount of taxes, interest and cost due thereon.

2nd and 3rd.--"In the event your answer to question No. 1 is in the negative, would the fact that the County Collector waived his commission on delinquent taxes and that every school district within the county by its

directors took like action change  
your answer to query No. 1.

"In your opinion, have the directors  
of the various school districts power  
or authority to waive the interests of  
the various districts or delinquent tax  
penalties."

The attempt of the County Collector to waive his commission on delinquent taxes, would not in any way affect the powers of the County Court as set forth in Item 1, of this opinion. Generally, public officers, such as school board directors are creatures of law whose duties are statutory. Corley vs Montgomery, 46, S.W. (2d), p. 283. Nowhere is there any statutory law vesting in school boards the power to remit penalties on back taxes.

4th.--"In the event the County Court, contrary to my opinion, took such action, would the collector be within his legal rights in abiding by this order of the Court, and if he did so, would the Surety Company be responsible on his bond for the delinquencies in back taxes due various County and State agencies."

As has been pointed out under Item 1, of this opinion, the Collector has certain duties to perform, and these include the collection and accounting for penalties on delinquent taxes, and further, upon the failure of the Collector to comply with such laws, certain penalties are provided as above pointed out.

Yours very truly,

FRANKLIN E. REAGAN  
Asst. Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

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