

TAXATION: A law providing for remission of  
PENALTIES: penalties on delinquent taxes in  
UNIFORM LEGISLATION: certain parts of the State is un-  
constitutional.

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April 29, 1941

5-1

Honorable David A. Hess  
House of Representatives  
Jefferson City, Missouri



Dear Sir:

This is in reply to yours of April 29th, 1941,  
wherein you request an opinion as follows:

"I would appreciate it greatly  
if you could give me an opinion  
on House Bill 200 and 364 as to  
the constitutionality, if an  
amendment were adopted, limiting  
its application to Jackson County,  
St. Louis County, and St. Louis  
City."

In our oral conversation you suggested that an  
amendment to House Bills 200 and 364 was being considered.  
This amendment would exclude Jackson County, St. Louis  
County and the City of St. Louis from the provisions of  
the foregoing bills. These bills, if enacted, would  
relieve delinquent taxpayers of penalties on their taxes  
if they paid the same before January 1st, 1942. The question  
submitted brings up the issue of whether or not the bills as  
amended would conform to the uniformity section of the Consti-  
tution of Missouri, which is Section 3 of Article X. This  
section reads as follows:

"Taxes may be levied and collected  
for public purposes only. They  
shall be uniform upon the same class

of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws."

In 1933 the Supreme Court, in the case of State ex rel. Crutcher v. Koeln, 61 S. W. (2d) 750, had before it Senate Bill No. 80, which had the same force and effect at that time as would House Bills Nos. 200 and 364. Apparently the court took the view that a law providing for the remission of penalties for delinquent taxes must comply with Section 3, supra, of the Constitution. At l. c. 753, the court used this language:

"\* \* \* It seems clear that No. 80, if it includes respondent's commission, as we think it does, applying by express terms, as it does, to all collectors in the counties and cities of the state and to their fees, operates uniformly throughout the state and therefore fully satisfies the constitutional requirement of uniformity of operation. State ex rel. O'Connor v. Riedel, 329 Mo. 616, 627, 46 S. W. (2d) 131."

We might further suggest that such an amendment would be in violation of Section 53 of Article IV and especially subsections 23 and 28, which are as follows:

"The General Assembly shall not pass any local or special law:

"\* \* \* \* \*

"(23) Exempting property from taxation:

"\* \* \* \* \*

"(28) Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their official duties, or their securities from liability:

"\* \* \* \* \*

CONCLUSION.

From the foregoing authorities it is the opinion of this department that an amendment to House Bills 200 and 364 excluding Jackson County, St. Louis County, and the City of St. Louis from its provisions would violate the Constitution of this State, and especially Section 3 of Article X and Section 53 of Article IV.

Respectfully submitted,

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APPROVED:

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(Acting) Attorney-General

TWB:CP