

TAXATION: Property held by trustee by Jones-Munger delinquent
EXEMPTION: tax sale is exempt from taxation.

April 20, 1943



Hon. Charles S. Greenwood
Prosecuting Attorney
Chillicothe, Missouri

Dear Mr. Greenwood:

This is in reply to your letter of recent date where-
in you submit the following statement and request:

"I would like to know whether a piece of property that has been bid in at a third sale under the Jones-Munger Law (Section 11, 130) Revised Statutes, 1939, by the trustee appointed by the County Court by Section 11, 131, Revised Statutes, 1939, is subject to any prior taxes or taxes due on the property assessed by the City of Chillicothe. In other words, the county trustee bid the property in and now Livingston County holds title to it, Does this property become exempt from taxes of the city?"

Section 11130, Revised Statutes of Missouri, 1939, provides in part as follows:

"Whenever any lands have been or shall hereafter be offered for sale for delinquent taxes, interest, penalty and costs by the collector of the proper county for any two successive years and no person shall have bid therefor a sum equal to the delinquent taxes thereon, interest, penalty and costs provided by law, then such county collector shall at the next regular tax sale of lands for delinquent taxes, sell same to the highest bidder, and there shall be no period

of redemption from such sales. No certificate of purchase shall issue as to such sales but the purchaser at such sales shall be entitled to immediate issuance and delivery of a collector's deed. * * * * *

By this section, when lands are sold at a third sale, no period of redemption is provided for, and the collector is required to issue a deed at once. The purchaser at such sale, whether he be a private individual or the trustee named in Section 11131, Revised Statutes of Missouri, 1939, takes the fee title to the land sold, provided he complies with the other provisions of the statute. Section 11131 provides in part as follows:

"It shall be lawful for the County Court of any County, and the Comptroller, Mayor and President of the Board of Assessors of the City of St. Louis, to designate and appoint a suitable person or persons with discretionary authority to bid at all sales to which Section 11130 is applicable, and to purchase at such sales all lands or lots necessary to protect all taxes due and owing and prevent their loss to the taxing authorities involved from inadequate bids. Such person or persons so designated are hereby declared as to such purchases and as title holders pursuant to collector's deeds issued on such purchases, to be trustees for the benefit of all funds entitled to participate in the taxes against all such lands or lots so sold. Such person or persons so designated shall not be required to pay the amount bid on any such purchase but the collector's deed issuing on such purchase shall recite the delinquent taxes for which said lands or lots were sold, the amount due each respective taxing authority involved, and that the grantee in such deed or deeds holds title as trustee for the use and benefit of the fund or funds entitled to the payment of the taxes for which said lands or lots were sold. * * * * *

On lands or lots so purchased, and on the lands or lots so disposed of, the State, County, School Districts and Road Districts are generally the political sub-divisions to which the taxes belong.

Section 6 of Article X of the Constitution of Missouri, provides in part as follows:

"The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. * * * * *

The tax funds for which lands are sold generally belong to one of the public bodies named in said Section 6, supra. So, if such lands are purchased and held by a trustee for the use and benefit of these funds which belong to political sub-division of the state, then they would be exempt from taxation under the Constitution.

In the case of State ex rel. v. Bauman, 153 S. W. (2d) 31, l. c. 34, the court, in discussing a question similar to the one here presented, said:

"Even though taxes have been levied and assessed against a tract of land while under private ownership, if it be afterwards acquired by a governmental agency such taxes may not be collected. Bannon v. Burnes, C.C.W.D. Mo., 39 F. 892. And see cases cited in the notes in 30 A.L.R. 413 and 2 A.L.R. 1535. Since the City is seeking to purchase the land in its public governmental capacity and not as a mere fiduciary, the land becomes immune from taxation as soon as the City becomes the owner of it and such immunity would extend to taxes previously assessed and levied."

In the Bauman case, the court held that after the City of St. Louis had acquired the tax certificate to certain lots it purchased under a delinquent tax sale in that city, said lots were exempt from taxation thereafter and that the city was not required to pay taxes which accrued from the date of the sale until the time for redemption had expired. The lands

sold in the Bauman case to the City of St. Louis were sold before the law was amended, providing for a trustee to make the purchase, as is provided for under Section 11131, supra. When the City of St. Louis, in the Bauman case, obtained the certificate of title, the court held that the city had an equitable title to lots. At l. c. 35, the court made this statement:

"The right to call in the legal title ordinarily presupposes an equitable title in the person who may exercise the right. An equitable title has been described as the right in the party to whom it belongs to have the legal title transferred to him upon the performance of specified conditions. *Karalis v. Agnew*, 111 Minn. 522, 127 N. W. 440. The act permits the application of this rule in this case. Therefore, the City is now vested with the equitable title to the land and the land is not subject to taxes. In *King County, Washington v. United States Ship Board, E. F. Corp.* 9 Cir., 282 F. 950, 953 it is stated: 'The taxable character of property is to be referred to the status of the real, rather than the nominal, owner. Private property is not exempt from taxation because the government holds the legal title thereto, and by parity of reasoning neither is public property taxable because the naked legal title is in a private person. * * * * *'"

CONCLUSION

Following the principle in the Bauman case, the title to lands purchased by trustees under Section 11131, supra, would be within the exempt class provided for under Section 6, Article X of the Constitution, because both the legal and equitable title is vested in the trustees who hold the lands for the use and benefit of tax exempt bodies.

Respectfully submitted,

APPROVED:

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