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OPINION LETTER NO. 150

Honorable John E. Casey
Prosecuting Attorney
Linn County
116 North Main Street
Brookfield, Missouri 64628

Dear Mr. Casey:

This letter is in response to your letter asking:

"Can a Trustee of a special road district which has been dissolved, and who has levied and collected a tax when there was already sufficient funds in the account to pay off the bonds which were due two years in the future, return to each taxpayer the amount of money that was paid by that taxpayer for taxes for the year of the levy that was not necessary?"

You also state:

"A special road district was formed which encompassed one-half of Jackson Township in Linn County, Missouri. Bonds were issued and after operating a number of years, the district was dissolved two or three years ago. The bonds have still not been paid off and are not due until 1978 or 1979, and therefore, the County Court appointed a trustee. Inadvertently, the trustee, for the tax year 1977, levied taxes. There were, prior to 1977, sufficient funds derived from the income of the bonds to pay off the bonds and therefore it was not necessary that this tax be levied. Some of the taxpayers in the special road district, which composes one-half of the township, want the money returned to them.

Honorable John E. Casey

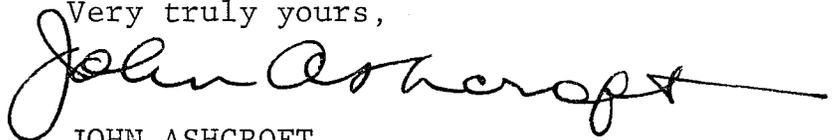
"Section 233.445 RSMo. 1969 provides as follows:

'When the Trustee shall have closed the affairs of the road district, and shall have paid all debts due by said road district, he shall pay over to the county treasurer all money remaining in his hands, and take receipt therefor, and deliver to the clerk of such county court all books, papers, records and deeds belonging to the dissolved road district.'

"It is anticipated that the road district bonds will be paid off within the next two years and the affairs of the district can be wound up. There appears to be no objection to any excess funds being paid over to the County Court pursuant to that statute but the question revolves around the one particular year, 1977, when the taxes were levied and the funds derived from that levy that they wish to be returned to the taxpayers who paid the taxes."

We find no statutory provision authorizing the trustee to refund such taxes. It is therefore our view that no refund of such taxes can be made by the trustee.

Very truly yours,



JOHN ASHCROFT
Attorney General