

Subject

*Opinion - Approval
Property - Delinquent*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

March 18, 1974

Opinion No. 74-98

Mr. Matthew J. Dowd, Esq.
County Counselor, Shawnee County
115 East 7th Street
Topeka, Kansas 66603

RE: K.S.A. 1973 Supp. 79-2017, 2018 and 2019.

Dear Mr. Dowd:

You have requested an opinion from this office interpreting the provisions of K.S.A. 1973 Supp. 79-2017, 2018 and 2019. Specifically you inquire as to whether the county may accept as a compromise or settlement an amount less than full payment of delinquent tax judgments, where such is made by and through the County Counselor.

We find nothing in the above statutes to warrant an inference or conclusion that the legislature intended for the county to accept less than the full amount due on a delinquent tax judgment as payment in full. This, however, does not preclude the county from accepting a lesser amount as partial payment.

Your attention is drawn to the provision of K.S.A. 1973 Supp. 79-2017 which in part provides:

"The county treasurer is hereby authorized to accept payment of delinquent taxes in full without payment of the penalty due upon such delinquent taxes if the amount of the penalty due is less than one dollar (\$1) and is further authorized to accept as payment in full, any penalty payment in an amount not less than one dollar (\$1) less than the full amount of the penalty due."

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We find no qualification of this proviso. Further, it is the opinion of this office that the inherent nature of the court costs, taxes accrued, interest and penalties become one and the same upon judgment being rendered against the delinquent tax payer inasmuch as they become a judgment as defined by the code of civil procedure. This is further supported by another provision of K.S.A. 1973 Supp. 79-2017:

"At the time of filing the abstract of the taxes, interest penalties and costs and the last tax warrant with the clerk of the district court, the county treasurer shall serve notice, in writing, on the county counselor of such filing and it shall be the duty of the county counselor to commence such proceedings as are necessary for the collection of such judgments."

Again the total amount due is identified as those integral parts of the judgment.

Accordingly it is the opinion of this office that the county treasurer is empowered by law to accept only the full amount due (within the above noted definition) in satisfaction of the delinquent tax judgment as payment in full. The amount to be collected therefore by the county counselor under circumstances which call for his assistance shall be the amount, as represented by "the abstract of taxes, interest penalties and costs and the last tax warrant," as filed with the clerk of the district court.

Very truly yours,



VERN MILLER
Attorney General

VM:JPS:bw