



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 26, 1976

ATTORNEY GENERAL OPINION NO. 76- 273

Mr. James B. McKay, Jr.
City Attorney
Post Office Box 49
El Dorado, Kansas 67042

Re: Taxation--Delinquent Taxes--Interest

Synopsis: Interest which accrues on delinquent taxes from date taxes are due until payment thereof, or until sale of the property on foreclosure, is to be credited to the county general fund, including interest on taxes collected for cities and other taxing subdivisions.

* * *

Dear Mr. McKay:

K.S.A. 1975 Supp. 79-2004 prescribes the time for payment of real estate taxes, and for the accrual of interest on unpaid taxes:

"In case the said first half of said real estate taxes remain unpaid after the twentieth day of December, said first half of said tax shall draw interest at the rate of ten percent (10%) per annum, and may be paid at any time prior to June twentieth following by paying said one-half of tax together with interest at above rate from December twentieth to date of payment. And all real estate taxes of the preceding year and accrued interest thereon which shall remain due and unpaid on June twenty-first shall draw interest at the rate of ten percent

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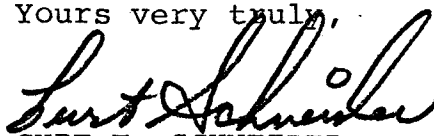
(10%) per annum from June twentieth until paid, or real estate sold for taxes by foreclosure as provided by law: *Provided*, All interest herein provided shall be credited to the county general fund, and that whenever any such interest is paid the county treasurer shall enter the amount of interest so paid on the tax rolls in the proper column and charge himself with such sum."

You advise that Butler County has been collecting such delinquent taxes, including those due to the city, but has retained for the county all interest paid on such delinquent taxes, including interest on delinquent taxes paid which are owing to the city. You ask the question whether under *Board of Education v. Franklin County Commissioners*, 149 Kan. 798, 89 P.2d 841 (1939), the city is entitled to interest on delinquent taxes attributable to taxes owed to it.

That case was an action to recover money representing interest collected on taxes levied by the board of education of the city of Ottawa, which interest had accrued from the date the property was advertised, sold and bid in by the county treasurer, to the time it was redeemed from sale. The court recognized that "in the absence of some statute making a different disposition of it, the interest on delinquent taxes due a municipality when the interest and taxes are collected goes to the municipality with the taxes." The court held that the provision of then G.S. 1935 79-2004, that "[a]ll interest herein provided shall be credited to the county general fund," was inapplicable, for it applied to interest charged on taxes from the date when due until the land was sold, whereas the action was for interest on taxes paid from the time the land was sold until redemption. As to this latter interest, the court found no statutory provision making a disposition thereof; accordingly, the court held that the board of education was entitled to the interest collected on taxes due it, and accruing from the time of foreclosure sale until redemption.

As to interest accruing on delinquent taxes from the time when due until payment or until sale of the real estate upon foreclosure, the moneys representing that interest on taxes due to the city are to be credited to the county general fund, pursuant to the proviso of K.S.A. 1975 Supp. 79-2004.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj