



STATE OF KANSAS

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July 16, 1980

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ATTORNEY GENERAL OPINION NO. 80-150

E. A. Mosher
Executive Director
League of Kansas Municipalities
112 West Seventh Street
Topeka, Kansas 66603

Re: Taxation--Collection and Cancellation of Taxes--
Interest Charges on Delinquent Taxes

Synopsis: Under the provisions of Sections 2 and 3 of 1980 House Bill No. 2829 (L. 1980, ch. 308, §§2, 3), until December 21, 1980, all delinquent property taxes, either real estate taxes or personal property taxes, together with any interest accrued thereon to December 21, 1979, shall continue to draw interest at the rate of twelve percent per annum. On and after December 21, 1980, however, such delinquent property taxes, together with interest accrued thereon to that date, shall draw interest at the rate of eighteen percent per annum. Cited herein: K.S.A. 1979 Supp. 79-2004, 79-2004a, 79-2017 and 79-2101, as amended by L. 1980, ch. 308, §§2, 3, 5, 6, respectively; L. 1945, ch. 360, §2.

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Dear Mr. Mosher:

You indicate the League of Kansas Municipalities has received a number of questions concerning interpretation of 1980 House Bill No. 2829 (L. 1980, ch. 308), regarding the amount of interest to be charged on delinquent property taxes, and seek our opinion in regard to the same.

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In our judgment, this law effects only a minor change in the law as it existed after December 20, 1979. Said law merely changes the rate of interest to be charged on delinquent property taxes, increasing that rate from twelve to eighteen percent per annum. However, the provisions of 1980 House Bill No. 2829 (L. 1980, ch. 308) are understandable only if the provisions of 1979 House Bill No. 2257 (L. 1979, ch. 312) are understood.

Said House Bill No. 2257 effected a major change in regard to the accumulation of interest on delinquent property taxes, both real estate taxes and personal property taxes, by adding the following sentence to both 79-2004 and 79-2004a:

"Taxes levied in any year prior to the year in which this act takes effect [1978 and prior years] and any interest accrued thereon under the provisions of former law which remain due and unpaid on the effective date of this act [December 20, 1979] shall draw interest at the rate of twelve percent (12%) per annum from and after the effective date of this act."
(Emphasis and bracketed language added.) L. 1979, ch. 312, §§1, 2.

This sentence is clear and unambiguous: From and after December 20, 1979, taxes levied in 1978 or any year prior thereto, and any interest accrued on those taxes, which remain due and unpaid on December 20, 1979, shall, on and after the 21st day of December, 1979, draw interest at the rate of twelve percent per annum. Thus, on December 21, 1979, interest accrued on any delinquent taxes should have been added to the amount of taxes owing, and interest, at the rate of twelve percent per annum, should have started accruing on that sum. In addition, in regard to unpaid personal property taxes levied in 1978 or any prior year, it must be presumed the legislature knew that such personal property taxes were or would become judgments pursuant to K.S.A. 79-2017 or 79-2101, by the time the above-quoted provisions became effective. Yet, the legislature made no distinction between delinquent taxes that had become judgments and those which had not, and further made no mention of tax warrant judgments. Instead, the legislature said "[t]axes levied in any year" prior to 1979, plus interest thereon, shall start to draw interest at the rate of twelve percent (12%) per annum, from and after December 20, 1979.

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Thus, the practical effect of the 1979 amendments, in regard to delinquent personal property taxes, was that those taxpayers who owed such taxes, which had been levied in any year prior to 1979, and in regard to which tax warrant judgments had been entered, were given until December 20, 1979, to come forth and pay their delinquent taxes, with interest accrued thereon at the rate of only ten percent per annum. [This rate of interest on delinquent taxes was established in 1945 (L. 1945, ch. 360, §2), and continued through December 20, 1979, on which date the provisions of 1979 House Bill No. 2257 (L. 1979, ch. 312) became effective.] Those taxpayers who failed to do so, however, suffered the consequence of having their delinquent taxes, plus interest accrued thereon, start drawing interest at the rate of twelve percent per annum. That is, interest accrued on any tax warrant judgment entered prior to December 20, 1979, was compounded (added to the amount of the tax warrant judgment), and interest at the rate of twelve percent per annum started accruing on that amount. K.S.A. 1979 Supp. 79-2004a (L. 1979, ch. 312, §2).

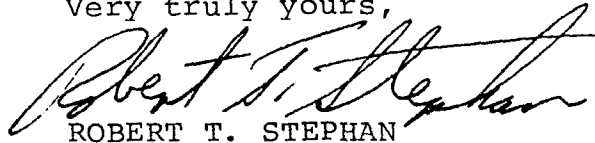
In our judgment, nothing contained in Sections 2, 3, 5 or 6 of 1980 House Bill No. 2829 (L. 1980, ch. 308, §§2, 3, 5, 6), changes the foregoing. The only change effected by the 1980 amendment is that, from and after December 20, 1980, all delinquent property taxes, together with any interest accrued on those taxes through December 20, 1980, regardless of the year in which said taxes were levied and regardless of the fact those delinquent taxes may have become a judgment, shall start to draw interest at the rate of eighteen percent per annum, in accordance with the express language of K.S.A. 1979 Supp. 79-2004 and 79-2004a, as amended. The fact the legislature omitted, in 79-2017 and 79-2101 (L. 1980, ch. 308, §§5 and 6), all reference to a rate of interest to be charged on personal property tax warrant judgments in no way effects the foregoing conclusions. Those judgments merely assist in the collection of delinquent personal property taxes. Said judgments do not, however, change the fact that on and after December 21, 1980, all delinquent taxes, together with interest accrued thereon through December 20, 1980, will start to draw interest at the rate of eighteen percent per annum.

Thus, until December 21, 1980, taxpayers owing delinquent property taxes can pay those taxes, with interest accrued thereon at the rate of only twelve percent per annum. L. 1979, ch. 312, §2. Thereafter, however, the rate of interest will be eighteen percent per annum, and that rate of interest will be charged not only on the amount of delinquent taxes or the amount of the tax warrant judgment entered in regard thereto, but will be

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charged on those amounts together with interest accrued thereon through December 20, 1980. Therefore, it is our opinion that under the provisions of sections 2 and 3 of 1980 House Bill No. 2829, (L. 1980, ch. 308, §§2 and 3), until December 21, 1980, all delinquent property taxes, including interest accrued thereon through December 20, 1979, shall continue to draw interest at the rate of twelve percent per annum. On and after December 21, 1980, however, such delinquent property taxes, together with interest accrued thereon until December 21, 1980, shall draw interest at the rate of eighteen percent per annum.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm