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## NEWSPAPER HAVING CIRCULATION LESS THAN TWENTY-FIVE THOUSAND—ADVERTISING DELINQUENT AND FORFEITED LAND LIST—PRICE PAID FOR SUCH ADVERTISING—SECTION 5706, GENERAL CODE.

## SYLLABUS:

*Publishers of newspapers having a circulation of less than twenty-five thousand are entitled to receive under Section 5706, General Code, for advertising the delinquent and forfeited list of the several counties thirty cents for each tract of land, city or town lot, or part of lot, contained in each such lists, even though such lists are required to be published twice. Annual Report of Attorney General for 1913, Vol. I, page 311 and Opinions of Attorney General for 1917, Vol. I, page 687, followed.*

COLUMBUS, OHIO, June 9, 1937.

HON. RALPH J. BARTLETT, *Prosecuting Attorney, Columbus, Ohio.*

DEAR SIR: This is to acknowledge receipt of your letter of recent date wherein you state that the county auditor of Franklin County published a notice of sale of forfeited lands as provided in Section 5751, General Code. The advertisement was published once a week for two consecutive weeks in two newspapers of opposite politics and of general circulation. One of such newspapers has a circulation of less than 25,000. You request my opinion as to whether or not Section 5760, General Code, "authorized the payment of thirty cents for the entire publication or the payment of thirty cents for each insertion of the advertisement."

Under Section 5751, General Code, the auditor of each county on receiving a list of forfeited lands from the Auditor of State is required to publish notice thereof in two newspapers in the English language of opposite politics and of general circulation printed in his county once a week for two consecutive weeks.

Section 5706, General Code, relating to fees for publication of delinquent and forfeited land lists, provides as follows:

"The publishers of newspapers, for advertising the delinquent and forfeited list of the several counties, and the notice of sale, shall be entitled to receive a sum not exceeding the following rates: For the notice of sale, ten dollars; for designating the several school districts, townships, villages and cities, and the several wards in a city, fifty cents each; and for each tract of

*land, city or town lot, or part of lot, contained in each such lists, thirty cents.* A greater sum than one-half of the taxes and penalties, due on any tract, lot or part of lot, shall not be allowed for advertising such tract, lot or part of lot. Providing, however, newspapers having a circulation of over twenty-five thousands shall charge and receive for such advertisements, notices and proclamations, rates charged by them on annual contracts for like amount of space to other advertisers in its general display advertising columns; and the publishers shall make and file with this bill before its payment, an affidavit that the newspaper had a bona fide circulation of more than twenty-five thousand at the time the advertisement, notice or proclamation was published, and that the price charged in the bill for same did not exceed the rates herein provided for such advertisement, notice or proclamation." (Italics the writer's.)

It is to be observed that under the above section the rates to be paid to publishers of newspapers having a circulation of less than 25,000 are different than the rates to be paid publishers of newspapers having a circulation of over 25,000. Your question being directed to newspapers having a circulation of less than 25,000, it becomes necessary to construe only the italicised portion of Section 5706, supra. You will note that the rates fixed by Section 5706 are for "advertising the delinquent and forfeited list of the several counties, and the notice of sale." Such rates as they relate to newspapers having a circulation of less than 25,000 are determined by the number of tracts of land, lots or part of lots *contained in the forfeited list* and not by the number of times the list is required to be published. Although under Section 5751, General Code, the forfeited list is required to be published twice, I find no language in Section 5706 which would indicate a legislative intent which would entitle the publishers of newspapers to charge the sum of thirty cents per tract, etc., for each publication.

I find two opinions of the Attorney General wherein Section 5706, General Code, was discussed. Although this section was amended several times by the legislature, yet that portion involved in this opinion was not amended in any form since the rendition of the two opinions above mentioned.

In the Annual Report of the Attorney General for 1913, Vol. I, page 311, the Attorney General said:

"By the provisions of Section 5706 it is plain that no newspaper is to be paid more than thirty cents for advertising any one tract, lot or part of lot."

Again, in Opinions of the Attorney General for 1917, Vol. I, page 687, the then Attorney General at page 688 said:

“The fees fixed by Section 5706, General Code, are for advertising the delinquent and forfeited list of the several counties and the notice of sale. This means that the fees enumerated in that section are to be paid the newspaper when it has published the list according to law, viz., weekly for two weeks. The law in fixing the rate assumes that the entire list as first published will be published a second time and the fees allowed a newspaper are for publishing the list twice.”

I concur in the foregoing opinions, for it is obvious that the amounts fixed by Section 5706 are for the publishing of the delinquent and forfeited list of the several counties according to law which requires two publications of such lists.

In specific answer to your question, it is my opinion that the publishers of newspaper having a circulation of less than twenty-five thousand are entitled to receive no more than thirty cents for each tract of land, city or town lot, or part of lot, contained in the forfeited list for the entire publication.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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PENALTIES AND INTEREST ON DELINQUENT LANDS—  
ABATEMENT AND REMITTANCE NOT AUTHORIZED—  
COUNTY TREASURER.

*SYLLABUS:*

*Penalties and interest are not authorized to be abated or remitted to taxpayers, by the county auditor or the county treasurer, on delinquent taxes paid between December 30, 1936, and February 24, 1937.*

COLUMBUS, OHIO, June 20, 1937.

HON. THEODORE TILDEN, *Prosecuting Attorney, Ravenna, Ohio.*

·DEAR SIR: This will acknowledge receipt of your letter of recent date, in which you inquire as follows: