

1090.

MUNICIPAL CORPORATION—TEN PER CENT PENALTY IN SECTION 3905 G. C. APPLICABLE ONLY TO DELINQUENT INSTALLMENTS OF ASSESSMENTS.

Held, under the statement of facts submitted as set forth in the opinion, that the ten per cent penalty referred to in section 3905 G. C. is not to be added to the deferred installment of the assessment, but is to be added only to the delinquent installment of assessment.

COLUMBUS, OHIO, March 20, 1920.

The Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—You have submitted to this department for opinion the following:

“Special assessments are divided into three forms of payment: Cash payment, which the property owner has option of paying in full, the deferred payment which shall be certified to the county auditor for collection, and the delinquent payment, which is the deferred payment when not paid at the time it matures and should be paid.

When correctly made up special assessments include the cost together with interest on the bonds issued for the property owner's portion.

Question: Under the provisions of section 3905, General Code, may the 10 per cent penalty be added upon the deferred or should it be added on the delinquent charge?”

No doubt you mean by the statement of facts which precedes your inquiry that the common practice as to the mode of payment of assessments determined by the municipal council under authority of section 3815 G. C. (amended 107 O. L. 151), results in the three forms of payment which you name.

Said section 3905 and its related sections were fully considered by this department in an opinion rendered to your bureau under date December 17, 1917, appearing in Opinions of Attorney-General for 1917, Vol. III, page 2380. Without reviewing that opinion in detail, it is sufficient to say that the principles therein discussed when applied to your statement of facts furnish answer to your question as follows:

The 10 per cent penalty referred to in section 3905 G. C. is not to be added to the deferred installment of assessment, but is to be added only to the delinquent installment of assessment.

Very respectfully,

JOHN G. PRICE,
Attorney-General.