

4142.

DELINQUENT TAXES—ASSESSED FOR PUBLIC LIBRARY—DUTY OF COUNTY TREASURER TO CREDIT TO SUCH LIBRARY WHEN COLLECTED.

SYLLABUS:

*If, prior to the year 1931, taxes were assessed for the benefit of a public library, which taxes were permitted to become delinquent, when such taxes are collected during any subsequent year by the county treasurer, they must be credited to such public library and paid out in the manner provided by law.*

COLUMBUS, OHIO, March 10, 1932.

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

GENTLEMEN:—This will acknowledge receipt of your request for opinion as follows:

“Inasmuch as school district public libraries now receive their funds from the intangible property tax, the question is asked whether, when delinquent taxes on the duplicates of 1930 and former years are collected this year or in future years, the amounts levied in the year in which the taxes became delinquent for library purposes, should be distributed to the libraries.”

Section 5625-3 of the General Code, reads as follows:

“The taxing authority of each subdivision is hereby authorized to levy taxes annually, subject to the limitations and restrictions of this act (G. C. §§ 5625-1 to 5625-39), on the real and personal property within the subdivision for the purpose of paying the current operating expenses of the subdivision and the acquisition or construction of permanent improvements. The taxing authority of each subdivision and taxing unit shall, subject to the limitations and restrictions of this act (G. C. §§ 5625-1 to 5625-39), levy such taxes annually as are necessary to pay the interest and sinking fund on and retire at maturity the bonds, notes and certificates of indebtedness of such subdivision and taxing unit including levies in anticipation of which the subdivision or taxing unit has incurred indebtedness. All taxes levied on property shall be extended on the tax duplicate by the county auditor of the county in which the property is located, and shall be collected by the county treasurer of such county in the same manner and under the same laws, rules and regulations as are prescribed for the assessment and collection of county taxes. The proceeds of any tax levied by or for any subdivision when received by the fiscal officer thereof shall be deposited in its treasury to the credit of the appropriate fund.”

When the tax for school district public libraries was assessed, it was assessed for a specific purpose, and became a part of the budget which was used for the

purpose of determining the tax rate. Even though the item may have apparently lost its identity when the tax item against a particular parcel of real estate appeared on the tax duplicate as a total of the taxes against such parcel, this assessment nevertheless was a particular tax for a specific purpose and could be used for no other.

I do not believe the mere fact that this tax became delinquent would in any manner affect the right of the tax levying authority or the subdivision for which the tax was assessed from receiving the funds when and as collected.

By reason of the fact that the taxes in question were assessed and payable under the law as it existed prior to the year 1931, the statutes then existing would be applicable. Sections 2654 and 2655, General Code, as then existing, read as follows:

"Sec. 2654. When taxes charged against the property of a person are so paid by installments, each such payment, exclusive of road taxes, shall be apportioned among the several funds for which taxes have been assessed."

"Sec. 2655. If a person desires to pay only a portion of a tax charged on real estate otherwise than in such installments, such person shall pay a like proportion of all the taxes charged thereon for state, county, township or other purposes, exclusive of road taxes. No person shall be permitted to pay one or more of such taxes without paying the others in like proportion, except only when the collection of a particular tax is legally enjoined."

I am therefore of the opinion that such taxes assessed for school district library purposes, when and as collected, should be credited to such subdivision and paid thereto in the manner provided by law.

I am unable to discern any principle or reason of law which could be construed as permitting the fact that the tax income of a public library was to be received from other sources after the year 1931 to alter the right to receive taxes assessed for the specific use of such library during prior years although paid after the year 1931.

It is therefore my opinion that if, prior to the year 1931, taxes were assessed for the benefit of a public library, which taxes were permitted to become delinquent, when such taxes are collected during any subsequent year by the county treasurer, they must be credited to such public library and paid out in the manner provided by law.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*