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SPRINGFIELD

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FILE NO. S-1071

REVENUE:

Collectibility of
Delinquent Taxes.

Honorable Frank X. Yackley
State's Attorney
LaSalle County
Ottawa, Illinois 61350

Dear Mr. Yackley:

I have your letter in which you ask which tax year or years are subject to the provisions of "An Act in relation to delinquent taxes and special assessments" (Ill. Rev. Stat. 1975, ch. 120, par. 891 et seq.). This Act, which became effective January 1, 1973, provided for the first time a 30 year statute of limitations. Section 1 of the Act provides:

"In cases where general taxes levied on real property have been delinquent for a period of

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30 years, such taxes shall be presumed to be uncollectible and in all such cases, the County Clerk and the County Collector shall enter upon the tax records in their respective offices where any such taxes appear the word 'Uncollectible', and shall adjust the books and records of their respective offices therefor as provided in this Act.

In cases where any installments of special assessments or special taxes levied on real property have been delinquent for a period of 30 years, such installments shall be presumed to be uncollectible and in all such cases, the Collector of the municipality which levied the same and the County Clerk and the County Collector shall enter upon the tax records in their respective offices where any such assessments or taxes appear the word 'Uncollectible' and shall adjust the books and records of their respective offices therefor."

Section 2 provides in relevant part:

"Actions for the collection of any delinquent general tax, or the enforcement or foreclosure of the lien thereof shall be commenced within 30 years after such tax became delinquent, and not thereafter and after 30 years the lien on account of any such tax shall be discharged and released.

* * *

Actions for the collection of any delinquent installments of special assessments or special taxes, or the enforcement or foreclosure of the lien thereof shall be commenced within 30 years after such installments became delinquent and not thereafter and after such 30 years the lien on account of any such installment shall be discharged and released. * * * "

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The question you raise is best expressed by using the example you have enclosed. Assume that general taxes are delinquent for the years and in the amounts following:

Delinquent taxes for the year 1946	=	\$100
<u>Delinquent taxes for the years 1947-1976</u>	=	<u>\$2000</u>
Total delinquent taxes	=	\$2100

Your example assumes that the taxes became delinquent by the end of the year for which they were assessed and that the question arises in 1977. You ask whether in 1977 all delinquent taxes for 1946 and for the years 1947 through 1976 are to be noted marked uncollectible or only those for 1946. The result of the first alternative would be that in 1977 no tax lien would exist against the property, and only 1977 taxes would be collectible. The result of the second alternative would be that in 1977 the delinquent taxes for the years 1947 through 1976 would remain collectible and would remain the source of a lien against the property.

The language of sections 1 and 2 of the act is plain and unambiguous. Language of a statute which is plain and unambiguous does not need construction in order to ascertain its meaning (Department of Public Works and Buildings v.

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Schon, 42 Ill. 2d 537; Nordine v. Illinois Power Co., 32 Ill. 2d 421). If the words of a statute are free from ambiguity they must be given their plain meaning (City of Decatur v. German, 310 Ill. 591). When the language of sections 1 and 2 is given its plain meaning, it is clear that the second alternative above is the correct interpretation.

Section 1 provides that general taxes and installments of special assessments are to be presumed uncollectible in cases where they "have been delinquent for a period of 30 years". In your example only the taxes for the year 1946 will have been "delinquent for a period of 30 years" in 1977. The taxes for the years 1947 through 1976 have been delinquent for less than 30 years.

If there were any doubt as to the meaning of section 1, the application of section 2 to your example should dispel any such doubt. Section 2 provides that actions for the collection of any delinquent taxes or of any delinquent installments of special assessments "shall be commenced within 30 years after such tax [or such installments] became delinquent and not thereafter" and that after 30 years the

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lien shall be discharged. In your example, an action could not be commenced in 1977 to collect the delinquent taxes for the year 1946 because the action would not have been commenced within 30 years after the taxes became delinquent in 1946. The lien would therefore be discharged as to those 1946 taxes. An action could be commenced in 1977 to collect the delinquent taxes for the years 1947 through 1976, however, because it would have been commenced within 30 years after those taxes became delinquent in the years 1947 through 1976 respectively. The lien based on those delinquent taxes for the years 1947 through 1976 is not discharged and may still be enforced. Thus, it is clear from the wording of both sections 1 and 2 that only the delinquent taxes for years which are more than 30 years ago are to be recorded as uncollectible and the lien thereof released and discharged.

Accordingly, it is my opinion that where taxes on property for a number of years, the least recent of which is 30 years or more ago, are delinquent, only the delinquent taxes for the year or years which are more than 30 years ago are to

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be presumed uncollectible and no longer the source of a lien against the property. Taxes which became delinquent in years less than 30 years ago remain collectible and the source of a lien against the property even though taxes against the same property which became delinquent more than 30 years ago have become uncollectible.

Very truly yours,

A T T O R N E Y G E N E R A L