

It is my understanding that persons employed by the Civil Works Administration are not "in the employ of the public schools of the state" but are employed by the United States and are paid out of funds made available by the United States for supplementary educational work carried on by the Federal Government. The term "*the public schools of the state*" has a well-understood meaning and while it is not strictly accurate to say that a teacher in a public school of the state paid by state funds is "*in the employ of the public schools,*" I think it is evident that the intention is to make eligible for the annuity provided by the Act all teachers who have taught twenty-five years or more in the public schools and have "ceased to be in the employ" as teachers of the proper officers charged with the duty of administering the state's public school system. Employes of the United States paid by the Civil Works Administration are not in the above class, and their employment by the Civil Works Administration would not, in my opinion, make them ineligible for the annuity if they are otherwise eligible.

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**ACCOUNTS, BOARD OF: Taxation—moratorium on sale of real estate on account of delinquent taxes.**

December 29, 1933.

Hon. William P. Cosgrove,  
State Examiner,  
State Board of Accounts,  
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion construing Section 2 of Chapter 65 of the Acts of 1932, which provides as follows:

*"No real estate shall be sold for the purpose of collecting any delinquent installment or installments of tax until fifteen months shall have elapsed after any such installment shall have become delinquent, and such real estate shall be sold for the purpose of collecting only such taxes as shall be delinquent."* (Our italics.)

Acts of 1932, page 234.

The question which you submit is as follows:

“If a property owner has installments of taxes which became delinquent in November, 1932, and prior thereto, and also has installments of taxes which became delinquent in 1933, will the sale in February, 1934, include the 1933 delinquent installments or will the tax sale be confined only to installments which became delinquent in November, 1932, and prior thereto?”

Under the conditions set out by you, in my opinion there is no authority for including the 1933 delinquent installments in the sale in February, 1934. The statute provides that “no real estate shall be sold for the purpose of collecting *any delinquent installment or installments* of tax until fifteen months shall have elapsed after any *such* installment shall have become delinquent.” (Our italics). The above language is clear and limits the sale for the purpose of collecting delinquent taxes to taxes which have been delinquent for at least fifteen months. The additional language, in my opinion, was used in order to make doubly sure, what the legislature had already made clear, although apparently it is now claimed that its use has given rise to some ambiguity. However, when the evident purpose of the provision is kept in mind, the ambiguity disappears. There could be no purpose in using language to limit the sale to the collection of *only delinquent* taxes. Clearly, there would be no right to sell to collect taxes which are not due. I think, therefore, the use of the words “*only such taxes*” as shall be delinquent, clearly refers to the preceding sentence which forbids a sale until fifteen months after delinquency occurs and that what is actually intended is that the sale shall include “*only such*” *delinquent taxes* as shall have been delinquent for fifteen months.