



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 28, 2025

Risher Caves, Esq.
Attorney, Jones County Board of Education
Post Office Drawer 167
Laurel, Mississippi 39441-0167

Re: Ad Valorem Taxes and Leases of Sixteenth Section Lands

Dear Mr. Caves:

The Office of the Attorney General has received your request for an official opinion.

Background

Based on a telephone conversation with you, we understand the following: Jones County (“County”) has had multiple instances in which a lessee of sixteenth section land fails to pay the lease rental and ad valorem taxes on the leasehold. A tax sale would vest title to the balance of the lessee’s leasehold in a tax sale purchaser, but the lease expires before a tax sale matures. The Jones County School District (“School District”) later enters a new lease with a subsequent lessee. The ad valorem taxes from the first lease remain delinquent. While we cannot validate or invalidate past action, we understand the issue revolves around whether the prior lessee owes ad valorem taxes on the initial lease and whether the current lessee can pay ad valorem taxes on the current sixteenth section lease if the taxes from the first lease have not been paid.¹

Questions Presented

1. If a lessee of sixteenth section land fails to pay the ad valorem taxes on the leasehold, the original lease expires, and the School District later enters a new lease with a subsequent lessee, who is responsible for the ad valorem taxes owed from the first lease?

¹ Notably, your original opinion request asked various questions regarding how certain transactions should be reflected in the Tax Assessor/Collector’s records. Opinions of this office are limited to prospective questions of state law. Miss. Code Ann. § 7-5-25. We refer you to the Technical Assistance Division in the Office of the State Auditor for questions regarding how the Tax Assessor/Collector should reflect certain transactions in his or her records.

2. Can the subsequent lessee pay taxes on his or her current lease if the delinquent ad valorem taxes on the first lease are still owed?
3. Can the delinquent ad valorem taxes from the first lease be forgiven or waived?

Brief Response

1. Delinquent ad valorem taxes owed on a sixteenth section leasehold are a personal debt of the original lessee. A subsequent lessee is not responsible for taxes not paid by a prior lessee.
2. There is no prohibition against leasing sixteenth section land or accepting payment of current ad valorem taxes for such lease simply because a prior lessee still owes delinquent ad valorem taxes. In fact, the School District in exercising their trustee duties must make all efforts to maximize the revenue of the sixteenth section land for the beneficiaries of the trust.
3. Delinquent ad valorem taxes cannot be waived or forgiven. However, the debt could be recorded as uncollectable in the County books.

Applicable Law and Discussion

Sixteenth section land is state-owned land “held in trust for the benefit of the public schools. . . .” Miss. Code Ann. § 29-3-1. “The beneficiaries . . . [of the sixteenth section school trust land] are the inhabitants of the respective townships.” *Jones Cnty. Sch. Dist. v. Dep’t of Revenue*, 111 So. 3d 588, 595 (Miss. 2013) (internal citation and quotations omitted); *see also* MISS. CONST. art. VIII, § 211. “Like the board of education, the board of supervisors is also held to the standard of care of a trustee in their decisions regarding the 16th Section Public Trust Lands under . . . Section 29-3-1. All efforts to maximize the revenue for the beneficiaries of the trust must be made in exercising their trustee duties.” MS AG Op., *G. Smith* at *2 (July 3, 2008).

Pursuant to Section 29-3-71:

Sixteenth section lands reserved for the use of schools, or lands reserved or granted in lieu of or as a substitute for the sixteenth sections, shall be liable, after the same shall have been leased, to be taxed as other lands are taxed during the continuance of the lease, but in case of sale thereof for taxes, only the title of the lessee or his heirs or assigns shall pass by the sale.

If a sixteenth section leasehold is sold in a tax sale, “then via that sale, the county collected its taxes and there are no outstanding taxes.” MS AG Op., *Miller* at *2 (Aug. 7, 2015) (quoting MS AG Op., *Smith* at *1 (Oct. 2, 1992)). However, if the leasehold is not sold in a tax sale, the tax collector has the duty to collect the unpaid taxes in accordance with Section 27-41-11. MS AG Op., *Crawford* at *1 (Apr. 10, 1998) (internal citations omitted). This section provides that the person who fails or neglects to pay the taxes assessed against him by the due date is required to pay the taxes plus fees, penalties, costs, and interest. Miss. Code Ann. § 27-41-11. Accordingly, the debt owed for the delinquent ad valorem taxes on sixteenth section land is a personal debt of the original lessee and not a subsequent lessee. *See Crawford* at *2 (opining that “a new lease

holder is not responsible for taxes not paid by a prior lessee”) (internal citations omitted). Further, pursuant to Section 29-3-57, sixteenth section leases are in default upon 60-day delinquency and declared terminated.

With respect to whether the uncollected taxes owed by the first leaseholder can be forgiven or waived, Article 4, Section 100 of the Mississippi Constitution prohibits a county from writing off or forgiving debts. MS AG Op., *McDonald* at *1 (Nov. 8, 1996). However, we have further opined that:

[I]f by “writing-off” uncollectible debts you mean the utilization of accounting procedures to move uncollectible debts to a special category on the county [entity’s] books entitled “uncollectible” or “inactive” accounts, so that these debts do not show up in the yearly audit as “assets”, then the county entity may “write-off” such uncollectible debts in that sense. Any such debts could still be collected if circumstances changed at a later date since those debts would not actually have been forgiven.

Id. (citation omitted). Accordingly, delinquent ad valorem taxes cannot be waived or forgiven. However, the debt could be recorded as uncollectable. We refer you to the Technical Assistance Division in the Office of the State Auditor for questions regarding how the Tax Assessor/Collector should reflect certain transactions in his or her records.

In your request you cite Section 27-41-31 for the proposition that a subsequent sixteenth section leaseholder cannot pay his or her ad valorem taxes on the sixteenth section lease until the prior lessee’s delinquent taxes are paid. The relevant provision provides:

The tax collector shall not accept payment of current year taxes for real property *which has sold for delinquent taxes* until the taxpayer provides the tax collector with proof that the tax sales for such real property for the previous two (2) years have been redeemed in the chancery clerk's office.

Miss. Code Ann. § 27-41-31 (emphasis added). However, where there was no tax sale, the above Section 27-41-31 does not apply. There is no prohibition against leasing sixteenth section land or accepting payment of current ad valorem taxes for such lease simply because a prior lessee still owes delinquent ad valorem taxes. In fact, the School District in exercising their trustee duties must make all efforts to maximize the revenue of the sixteenth section land for the beneficiaries of the trust.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Beebe Garrard

Risher Caves, Esq.
August 28, 2025
Page 4

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION