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STATE OF NEBRASKA
OFFICIAL
DEC 12 1995
DEPT. OF JUSTICE

DATE: December 11, 1995.

SUBJECT: Computation of Interest on Delinquent Taxes Owing to Political Subdivisions Under Neb. Rev. Stat. § 45-104.01 (1993).

REQUESTED BY: Avery L. Gurnsey, Rock County Attorney

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding the computation of interest on delinquent real or personal property taxes. Neb. Rev. Stat. § 45-104.01 (1993) provides: "Unless otherwise specifically provided, the interest rate assessed on delinquent payments of any taxes or special assessments owing to any political subdivision of the State of Nebraska shall be assessed at a rate of fourteen percent per annum." Your question is whether the use of the term "per annum" requires that interest on delinquent taxes be compounded on an annual basis.

"Compound interest means interest on interest, in that accrued interest is added periodically to the principal, and interest is computed upon the new principal thus formed." ***Niggeling v. Michigan Dept. of Transp.***, 488 N.W.2d 791, 792 (Mich. Ct. App. 1992). "The difference between simple and compound interest is that simple interest does not merge with the principal and thus does not become part of the base on which future interest is calculated." ***Id.*** "The law does not favor compound interest or interest on interest, and the general rule, subject to some exceptions, is that in the absence of contract or statute authorizing it, compound interest is not allowed to be computed on

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a debt." 47 C.J.S. ***Interest and Usury*** § 6 (1982). Nebraska follows the general rule "that in the absence of contract or statute, compensation in the form of compound interest is not allowed. . . ." ***Abbott v. Abbott,*** 188 Neb. 61, 68, 195 N.W.2d 204, 109 (1972); ***accord Ashland State Bank v. Elkhorn Racquetball, Inc.,*** 246 Neb. 411, 520 N.W.2d 189 (1994).

Section 45-104.01 provides that the interest rate on delinquent taxes or special assessments owing a political subdivision is to be assessed "at a rate of fourteen percent per annum." The term "per annum" means "by the year." Blacks Law Dictionary 1022 (5th ed. 1979). "The term `per annum' has no bearing upon the issue of whether legal interest should be compounded or not." ***Seals v. Morris,*** 465 So. 2d 140 (La. Ct. App. 1985). "`Per annum' merely denotes the frequency at which the applicable rate or interest is to be applied and does not permit a compounded annual method of computation." ***Helland v. Helland,*** 214 Ill. App. 3d 275, ___, 157 Ill. Dec. 939, ___, 573 N.E.2d 357, 359 (1991).

The provision of interest on delinquent taxes "at the rate of fourteen percent per annum" under § 45-104.01 does not require that interest be compounded on an annual basis. "Interest on interest is not favored in the law and should not be awarded absent express legislative authority." ***Seals v. Morris,*** 465 So. 2d at 140. "Unless a statute specifically provides for the compounding of interest, there is no authority for its application." ***Caruso v. Local Union No. 690,*** 50 Wash. App. 688, ___, 749 P.2d 1304, 1305-06 (1988). As § 45-104.01 does not specifically provide for the compounding of interest, it must be construed to require only simple interest computed at the rate of fourteen percent per annum.

Very truly yours,

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7-14-7.1

APPROVED BY:

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