

Rural Improvement District—Improvement District—Interest Coupons—Interest—Warrants—Bonds—Registration.

Interest coupons on warrants of a rural improvement district should be registered and draw interest.

Interest should be paid first and then the balance applied to the payment of the warrants in the order of their registration.

Jay G. Larson, Esq.,
State Examiner,
Helena, Montana.

September 30, 1925.

My dear Mr. Larson :

You have requested my opinion whether interest coupons of a rural improvement district may be registered and draw interest after registration.

You state that the improvement district in question was organized in 1917 under the direction of the board of county commissioners and is known as the Toston improvement district.

Evidently, then, the district must have been organized under chapter 156 of the laws of 1917.

Section 19 of that chapter provides for the form of bonds and warrants that may be issued by such an improvement district, and provides generally that the bonds or warrants shall bear interest at 6 per cent per annum from the date of registration until called for redemption. It also provides that the warrants and bonds shall be registered, and then provides :

“If interest coupons be attached thereto they shall also be so registered.”

Do the registered interest coupons draw interest? The great weight of judicial authority, including the United States supreme court, holds that interest coupons call for interest. The general rule is stated in 33 C. J. page 205, as follows :

“While there are some decisions in which the contrary conclusion has been reached, it is very generally held that interest coupons or interest notes attached to bonds or similar instruments, being in themselves obligations in writing for the payment of a sum certain on a day certain have all the qualities of commercial paper and are in the nature of a principal debt, and interest thereon is generally held to be recoverable upon them when overdue as upon other money debts. This rule applies with full force and effect to coupons detached from the bonds to which they were annexed. And it has been held that the suspension of the right of mortgage bondholders to demand the payment of the coupons has not the effect of cutting off the right to collect interest on the coupons if they were ever entitled to it, but simply prevents them from collecting it at a certain time. However, it has been held that the total interest

recovered must not exceed the maximum amount allowed by law on the principal debt. And the rule allowing interest has no application where there is an express contractual provision to the contrary, and where it is to be inferred from the terms of the instrument that interest is not to be allowed. And under a statute prohibiting compound interest and the computation of interest on interest in the absence of an express agreement therefor, interest should not, in the absence of stipulation, be computed on the amount of past due interest coupons."

I find no statutory provision prohibiting the payment of compound interest, except section 7729, R. C. M. 1921, which relates to interest on judgments.

It is, therefore, my opinion that interest coupons of a rural improvement district may be registered and draw interest after registration.

You have also asked whether the sum of \$2,049.11 now on hand in the sinking fund of this improvement district should be used to pay the principal or the interest past due.

A reference to section 19 of chapter 156, laws of 1917, answers this question. It provides:

"provided, that the county treasurer shall first pay out of such special improvement district fund annually the interest on all outstanding warrants (or bonds) on presentation of the coupons belonging thereto, and any funds remaining shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in the order of their registration."

It is, therefore, my opinion that of the money on hand in the sinking fund so much should be used for the payment of interest coupons as is necessary to discharge and pay all interest due on all the warrants and the balance, if any, should be used to redeem the warrants in the order of their registration.

Very truly yours,

L. A. FOOT,

Attorney General.