

File No. 19948 continued.

The present Board of Estimates has, I think, uniformly acted upon the principle that it ought to obey the laws and ordinances in force, and that it ought not to pay out money upon a claim which, under this ordinance, could not be considered by the Council.

A claim for taxes paid by mistake is an ordinary claim in assumpsit, which is subject to limitation after three years. The provision you have in mind, relating to four years, is Sec. 843 of the Charter which forbids the city to collect any taxes after four years "from the levying of the same".

The taxes for 1912 were levied December 18, 1911 (Ordinance No. 50), so that after December 18, 1915 the city could not collect any taxes for 1912 which had not been paid, whether by mistake or design.

In the nature of things, persons who pay taxes by mistake ought to exercise some reasonable diligence in having the mistake corrected, and I do not know where the line should be drawn unless it is drawn in accordance with the ordinance which sets up the period of limitation.

I may add that, in 1909, my predecessor, Mr. Poe, gave an opinion that the Board of Estimates could not legally refund the amount of a tax bill alleged to have been paid twice in 1905.

Yours very truly,  
(Signed) S.S. Field,  
City Solicitor

.....