

COLLECTORS FEES: Formula for paying into the city, county and state treasuries excess fees collected.

} Sec. 6584-9935
} R. S. Mo. 1929

May 22, 1933



Hon. Forrest Smith
State Auditor
Jefferson City, Missouri

Dear Sir:

Your office requested an opinion from this department as follows:

"Section 9935, R. S. Mo. 1929, relating to the commission of the various County Collectors of the State sets out in Division 15 a proviso as follows:

'Provided, that no collector shall be allowed to retain over nine thousand dollars of commissions and fees in any one year except as provided in subdivision fourteen herein; and all fees and commissions coming into the hands of any collector from any source whatever in excess of nine thousand dollars, except as provided in subdivision fourteen, shall be paid into the city, county and state treasuries in proportion to the amount received on taxes collected for each'

In making the annual settlements as of March 1 with the various collectors, some of them have collected commissions in excess of the nine thousand dollars as provided in the article and the question has arisen as to the proper distribution of the excess commission refunded.

We would appreciate an opinion from your office advising us whom this refund should go to and the basis upon which the proportionate division should be established."

It is the opinion of this department that the refund, if any, occasioned by fees collected by a collector in excess of \$9,000, as referred to in Division 15 of Section 9935 R. S. Mo. 1929 should be transmitted to the official in charge of the various treasuries therein named, i. e., the city treasury, the county treasury and the

May 22, 1933

state treasury. There may be some doubt as to the proper person in the case of the cities affected but this can be ascertained by a glance at the statutes affecting cities of the first, second, third, and fourth classes, and finding therein the officer whose duty it is to take charge of the city treasury. (From our perusal of the statutes, the proper officer in cities of the first, third and fourth classes is named City Treasurer, and the officer in charge of the treasury in cities of the second class is named the Commissioner of Revenue, who is the ex-officio treasurer of the city - See Sec. 6584 R.S. 1929.

It is the opinion of this department that such refund as mentioned in your letter referred to above is to be computed as follows: by adding the total amount of taxes collected for each of said divisions of government, i.e., city, county and state, and paying to each of said divisions (through the treasurer or corresponding officer as aforesaid) that portion of the total refund, i.e., the total amount of fees collected above the \$9,000 which is represented by the proportion that the tax collected for each of said divisions of government (city, county and state) bears to the total amount of tax collected for all of said divisions.

In other words, if the collector collected \$100 for a city, \$200 for a county, and \$100 for the state, the total collected for all of said divisions would be \$400 and the proportion of the excess payments, or the excess fees, which each would be entitled to would be the amount that the tax collected for each bears to said total, i.e., for the city one-fourth, for the county, one-half, and for the state one-fourth.

We have assumed in the above opinion that your question does not refer in any manner to sub-division 14 mentioned in Sec. 9935, Division 15, heretofore quoted, and we believe that the above opinion answers in full your questions. However, in the event that some particular question is troubling you, please direct our attention to it in particular and an opinion from this office will be forthcoming.

Yours very truly,

POWELL B. MCHANEY
Assistant Attorney General

APPROVED:

Attorney General

PBM:AH