

TOWNSHIP ORGANIZATION:)

TOWNSHIP TRUSTEE:)
Fee & Compensation.)

Township Trustee entitled to 2% on first one thousand dollars and 1% on remainder.

August 10, 1937

FILED 11

Honorable Charles D. Brandom
Prosecuting Attorney
Daviness County
Gallatin, Missouri



Dear Sir:

This is to acknowledge receipt of your letter of August 9th, in which you request the opinion of this Department on the question therein submitted. Your letter is as follows:

"With reference to Section 12,310 as amended by the laws of 1931, page 377, this provides that the township trustee as ex-officio treasurer shall receive a compensation of 2% for receiving and disbursing all money coming into his hands as such up to \$1000.00 and 1% of all sums over \$1000.00. The question is, does this 2% on the first \$1000.00 mean with reference to each fund held by him or on all funds regardless of the source? In other words, as trustee he has in his hands school money belonging to several districts within the township, also township money and road and bridge money. Does the 2% commission apply on the first \$1000.00 in each fund of each school district or only upon the aggregate? I thought it possible that your office had passed on this question, and if so I would appreciate a copy of your opinion. It seems that almost every township trustee in the county is inquiring, so I will appreciate hearing from you."

The duties of the township trustee and ex-officio treasurer of townships in counties under township organization are set forth in Section 12290, R.S.Mo. 1929, Article 7, Chapter 86, Revised Statutes of Missouri, and is as follows:

"He shall keep a correct account of all moneys coming into his hands by virtue of his office, from what source received, and what amount, of the amount paid out, to whom paid, and on what account, in a book to be kept by him and provided for the purpose by the township; said book to be kept in such a manner as to show the amount of money in his hands belonging to each school district or fractional part in the township and the amount of road money belonging to the township. He shall make settlement annually between the twentieth day of March and the fifteenth day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and he shall settle with the county treasurer within twenty days after the apportionment of the school funds to the school district, and receive all money in the hands of the county treasurer belonging to his township, and receipt for the same, and shall pay all warrants drawn on him by the board of school directors in his township out of the funds belonging to the district making the order, and he shall not pay any money out belonging to any other fund than that mentioned in the warrants, and he shall file with the township clerk on or before the day of the regular meeting of the township board in April a detailed statement of all money by him received and paid out, to whom and out of what fund, and the amount of hand, and at the expiration of his term of office he shall turn

over to his successor all moneys, books and papers belonging to the office, and take duplicate receipts for the same, one to be filed with the township clerk, the other to be retained by himself."

The compensation received by the township trustee as ex-officio treasurer is set forth in the last proviso of Section 12310, R.S.Mo. 1929, as amended by Laws of 1931 at page 377, and is as follows:

"* * * And provided further, that the township trustee as ex officio treasurer shall receive a compensation of two per cent. for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of one thousand dollars and one per cent. of all sums over said amount."

It will be noted that the township trustee as ex-officio treasurer has the responsibility and care of township funds and Section 12310, supra, provides that he "shall receive a compensation of two per cent. for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of one thousand dollars and one per cent. of all sums over said amount." We take it that this section means that he shall receive as his compensation for receiving and disbursing all moneys, two per cent. on the first one thousand dollars and one per cent. on all sums over said one thousand dollars. The trustee, being custodian of all of the township funds, his compensation received for receiving and disbursing should be based and figured on the aggregate amount of moneys so handled by him and it cannot be broken up into separate funds, such as school funds, township funds, and any other funds which may come into his hands, for the purpose of figuring the amount of compensation he should receive for handling same.

It is, therefore, our opinion that the two per cent. commission which he shall receive is based on the first one

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thousand dollars received and disbursed by him and the one per cent. on the remaining portion received and disbursed, and that the whole of the funds in his hands, made up of the various apportionments, is to be considered as one sum for the purpose of figuring the township trustee's compensation.

We are enclosing a copy of an opinion rendered by this Department January 5, 1934, which might be of interest to you in connection with the same question.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

CRH:EG

Enc.