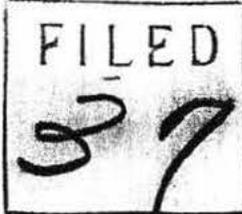


TAXATION:
DELINQUENT PERSONAL TAXES:

Collector shall collect on delinquent personal property taxes an amount not to exceed 1% per month or 10% per annum and 2% of the amount of the tax.

December 16, 1952



12-17-52

Honorable Morran D. Harris
Prosecuting Attorney of
St. Clair County
Osceola, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this office which request reads in part as follows:

"In our county (St. Clair-4th class), the Collector has been collecting 1% per cent interest per month (not to exceed 10% per year) on all delinquent personal taxes, together with a 2% penalty. This is the case when the personal tax is delinquent, but is collected without suit (a true copy of one such collection is enclosed for your examination). Furthermore, this is being done under directive from the Audit Department, which Department has refused to allow the Collector, or the County Court (by Court Order) to compromise interest and penalties in the collection of said taxes.

* * * * *

"Would you tell me what amount of interest and penalty the collector is entitled to collect on delinquent personal taxes when no suit has been filed and what authority he has for collecting same. Also, can the County Court, by Court Order, compromise said interest and penalty (not the tax itself) in part or whole? * * *"

Honorable Morran D. Harris

You first inquire as to what amount a county collector is entitled to collect in addition to a delinquent personal tax. In this regard we refer you to Section 139.100, RSMo 1949, which provides that on delinquent taxes the collector shall collect and account for, as other taxes, an additional tax, as penalty, the amount provided for in Section 140.100. Said section reads as follows:

"1. If any taxpayer shall fail or neglect to pay such collector his taxes at the time and place required by such notices, then it shall be the duty of the collector after the first day of January then next ensuing, to collect and account for, as other taxes, an additional tax, as penalty, the amount provided for in section 140.100.

"2. Collectors shall, on the day of their annual settlement with the county court, file with said court a statement, under oath, of the amount so received, and from whom received, and settle with the court therefor; provided, however, that said interest shall not be chargeable against persons who are absent from their homes, and engaged in the military service of this state or of the United States; provided, that the provisions of this section shall apply to the city of St. Louis, so far as the same relates to addition of said interest, which, in said city, shall be collected and accounted for by the collector as other taxes, for which he shall receive no compensation.

"3. Whenever any collector of the revenue in the state fails or refuses to collect the penalty provided for in this section on state and county taxes, it shall be the duty of the director of revenue and county clerk to charge such collectors with the amount of interest due thereon, as shown by the returns of the county clerk, and such collector shall be liable to the penalties as provided for in section 139.270."

The amount specified in Section 140.100 is 1% per month or fractional part thereof not to exceed 10% per annum. Said section reads in part as follows:

Honorable Morran D. Harris

"1. Each tract of land in the back tax book, in addition to the amount of tax delinquent, shall be charged with a penalty of ten per cent of each year's delinquency except that the penalty on lands redeemed prior to sale shall not exceed one per cent per month or fractional part thereof or ten per cent annually."

Section 52.290 provides that the collector shall be allowed to collect 2% of the amount of the delinquent tax for services rendered in the collection of the delinquent taxes.

From the preceding referred to provisions, we are of the opinion that a county collector in counties of the fourth class is entitled to collect, in addition to the delinquent tax, an amount not to exceed 1% per month or 10% per annum and 2% of the amount collected as provided in Section 52.290.

In answer to your inquiry as to whether or not the county court by court order may compromise said interest and penalty, I am enclosing a copy of an opinion to the Honorable Rex H. Henson, Prosecuting Attorney of Butler County, May 28, 1952, holding that the interest and penalties of a delinquent personal property tax bill may be compromised by the county collector.

CONCLUSION

Therefore, it is the opinion of this office that in collecting delinquent personal property taxes, a collector of a county of the fourth class is authorized and has the duty of collecting, in addition to the amount of the tax bill, 1% per month not to exceed 10% per annum and 2% of the amount actually collected.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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