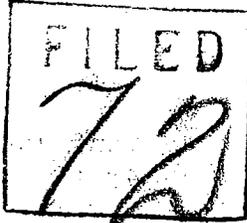


COUNTY COLLECTOR:  
COMPENSATION:  
TAXATION:  
COUNTIES:  
COMMISSIONS:  
COLLECTOR:  
DRAINAGE DISTRICTS:

County collector of second class county charges commissions for collection of current taxes and drainage district taxes and pays such commissions to county treasury.

*Note: See exceptions, para 2, sec 50.350  
RSMo  
1978*



April 11, 1956

Mr. Stephen R. Pratt  
Prosecuting Attorney  
Clay County  
Liberty, Missouri

Dear Sir:

This is in answer to your letter of recent date, requesting an official opinion of this office, reading as follows:

"Our County became a second class county on January 1st of last year. Several questions have arisen regarding collection of taxes and we would like your official opinion relative to the following:

1. Section 52.420 R.S. 1949 provides that 'the annual salary therein specified to be paid to the collector shall be in lieu of all fees, commissions, penalties, charges and compensation...'

"Section 242.540 provides that the collector shall collect all drainage taxes for drainage districts organized in the county by authority of the Circuit Court, and 242.550 provides that he shall retain 1% of the amount collected on current taxes and 2% of the amount collected on delinquent taxes for his services.

"Does our class 2 collector continue to make such charges, and if so, does he remit the full amount thereof to the general revenue fund of the county?

2. Section 52.260 provides that the collector, except in counties where he is by law paid a salary in lieu of fees and other compensation, shall receive for his services in

Mr. Stephen R. Pratt

collecting current taxes certain commissions, and further provides that if the commissions so retained exceed the amount incurred by him for office expenses and allowed to him for salary, then such excess shall be prorated among and returned to the various governmental subdivisions for whom taxes were collected.

"Section 52.330, apparently applicable to St. Louis County only, provides that the Collector shall continue to collect such commissions and turn the same over to the County Treasurer. We have been unable to find any similar law applicable to our county. Does the Collector of Clay County continue to collect commissions for the collection of current taxes, and if so, is the amount thereof based upon the provisions of said Section 52.260?"

3. If the answer to the last question is the affirmative, is the collector required to return to the various governmental agencies the excess of his commissions over the office expenses and salary, or does he pay the entire amount of the commissions collected to the County Treasurer for the benefit of the general revenue fund?"

In answer to your first question we are enclosing an official opinion of this office rendered under date of May 5, 1955, to William Harrison Norton.

Section 50.350 RSMo 1949, provides as follows:

"It shall be the duty of every county officer, in all counties of the second class, who shall be paid an annual salary in lieu of all fees, penalties, commissions, charges, emoluments, and moneys due him or his office for any service performed, to charge, collect and receive, upon behalf of the county, every fee, penalty, commission, charge, emolument and money that accrues in his office for any service rendered, by virtue of any statute of this state, except such fees as are chargeable to the county."

Under the provisions of such section the county collector of a county of the second class is directed to collect the statutory commissions on drainage district taxes and to pay them into the county treasury.

Mr. Stephen R. Pratt

Section 52.260, RSMo 1949, provides in part as follows:

"The collector, except in counties where the collector is by law paid a salary in lieu of fees and other compensation, shall receive as full compensation for his services in collecting the revenue, except back taxes, the following commissions and no more: \* \* \*"

Such section authorizes the collection of the commissions found therein by county collectors in counties of the second class, but the compensation of such collectors is provided for by salary and such collectors are therefore not authorized to retain such commissions.

Under the provisions of Section 50.350, supra, such commissions are to be paid into the county treasury.

#### CONCLUSION

It is the opinion of this office that the commissions received by the county collector in a county of the second class for collection of drainage district taxes are to be paid into the county treasury.

It is further the opinion of this office that such collector is to collect the statutory commissions provided for collection of current taxes and to pay such commissions into the county treasury.

The foregoing opinion, which I hereby approve, was prepared by my assistant, C. B. Burns, Jr.

Very truly yours,

JOHN M. DALTON  
Attorney General

CEB/ld/b1