

ASSESSORS:

Assessor is entitled to compensation for making additional assessments on income tax returns.

10-13
10137 R.S. Mo. 1929
October 11, 1933.

FILED

Mr. Elliott M. Dampf,
Prosecuting Attorney,
Jefferson City, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"Will you kindly give me your opinion as to whether or not the County Assessor is entitled to receive the same fee for additional assessments on income tax returns as they are entitled to on the original return."

Section 10133, R. S. Mo. 1929, provides as follows:

"Assessors and collectors shall be compensated in like manner and in like amounts as for the assessments of other taxes: Provided, that in counties in which the assessors and collectors are paid a fixed salary, that in addition to the salary paid, they shall be permitted to charge for work performed in the assessing and collecting of the income tax, as provided by this article, the same fees as are charged by assessors and collectors whose salary is not fixed by law, and which fees so charged by said assessors and collectors for services rendered in assessing and collecting income tax shall be paid by the state."

Section 10132, R. S. Mo. 1929, provides as follows:

" * * *At any time within three years after any return shall have been filed the auditor shall have the right to examine, during the usual business hours, the business, records and books of any individual, corporation, joint stock company, joint stock association or partnership, and to issue a credit skip to any taxpayer, if more tax has been paid than legally due, which credit shall be taken as deduction of the succeeding tax or taxes based on incomes to the extent of such credit, and to certify to the assessor any deficiency determined by the auditor, and not returned by the taxpayer; and thereupon the assessor shall make an additional assessment in accordance with such certificate of the auditor, including all penalties provided; * * *."

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Section 10133, R. S. Mo. 1929, states that the assessor shall be compensated in assessing income taxes in like manner as to the assessment of other taxes, and this provision applies whether the assessor is on a fee basis or a salary basis. Under Section 10132, when the auditor certifies that there has been a deficiency not returned by the taxpayer it is made the duty of the assessor to make an additional assessment. The assessor is compensated according to the returns filed and preserved for safe-keeping. (If it becomes necessary for a new assessment to be made on account of a deficiency in the first return made by the taxpayer, we believe that the assessor is entitled to receive the same fees as he would have been entitled to had the return been an original one.) In other words, the necessity for making the additional return was not the fault or failure on the part of the assessor. X The return was necessitated by reason of the fact that the taxpayer in his original return failed to make a correct return. The statute requires the assessor to make the additional assessment and when he does make the additional assessment we believe that he is entitled to charge therefor. list

It is therefore the opinion of this Department that the assessor is entitled to include additional assessments on income returns in determining the compensation due him as such County Assessor.

Very truly yours,

Assistant Attorney General.

APPROVED:

Attorney General

FWH:S