

TAXATION:-Inquest fees which are deemed criminal costs may be used to offset delinquent back taxes, otherwise taxes can only be paid as provided for in Section 9911, R. S. Mo.1929.

December 27, 1933. 12-30 ✓



Mr. E. Paul Lamb,
Coroner of Wayne County,
Piedmont, Missouri.

Dear Sir:

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

"There is a question I would like to ask you and I will surely appreciate it if you will give me your opinion on it by return mail. The county here owes me for five inquests that I held during my term of office and they are not able to pay now and I owe them some personal tax which I am not able to pay at this time. I borrowed money to pay the real estate tax but at this time I just can't get any money to pay the personal, so I wonder if it would be possible for the county to credit me with my personal tax. I have quite a bit more coming to me than I owe and I can't see why it would not be fair to just have the court to tell the collector to credit me with what the county owes me. I think during these trying times that we should all stick together and try and help each other, and as both of these debts are honest debts that were unavoidable, I sincerely hope that they can be settled without the added put on me in the form of a tax bill."

Section 3855, R. S. Mo. 1929, provides as follows:

"All fees due witnesses before the grand jury, and all fees due jurors in any criminal case, and all fees accruing in any inquest case where the verdict of the jury is that the deceased came to death by other than unavoidable accident or natural causes, shall be deemed criminal costs, and shall be paid in like manner and shall be subject to all the offsets herein provided for."

Under the above section all fees accruing in any inquest where the verdict of the jury is that the deceased came to death by other than unavoidable accident or natural causes, shall be deemed criminal costs, and be subject to all offsets provided for in the statute. Section 3854, R. S. Mo. 1929, provides as follows:

"The county treasurers shall pay out all such fees to the proper owners as the same may be called for: Provided, that before any such fees shall be paid the party to whom the same is due shall furnish satisfactory evidence to the treasurer that he or she, as the case may be, is not at the time indebted to the state or county, on account of delinquent back taxes, or is indebted to the state or county on account of any fine, penalty, forfeitures, or forfeited recognizances, or costs for a violation of any criminal statute of this state, or for contempt of any court, no matter if the same shall have been paid by oath of insolvency as provided by law; or is indebted to the state or any county on account of any funds coming to his hands by reason of any public office: Provided further, that after deducting the amount of the indebtedness of the claimant, if any, on account of any or all of the various causes hereinbefore enumerated, the treasurer shall pay him the balance, giving duplicate receipts for the separate amounts paid, one of which shall be filed with the county clerk, who shall charge the treasurer with the same, but if the indebtedness of the claimant equals or exceeds the amount of his fees, stating on what account, and shall make duplicate receipts for the same, one of which he shall file with the county clerk, who shall charge the treasurer with all such receipts, and in his regular settlements with the county court the treasurer shall make a full and complete exhibit of all his acts and doings under section 3853 to 3858, inclusive."

Under the above section the county treasurer is required to offset against criminal fees any amount owed the county for delinquent back taxes. If, therefore, your inquest fees are such as become criminal costs under Section 3855, and the taxes you owe are delinquent back taxes, we believe that it would be proper for the county treasurer to offset the amount of your delinquent back taxes against the amount of criminal fees which you have coming from the county.

On the other hand, if the facts are such as not to bring your case within the two sections above cited, then we believe that the county has no right to offset any indebtedness it owes you against the taxes which you owe the county. Section 9911, R. S. No. 1929, provides as follows:

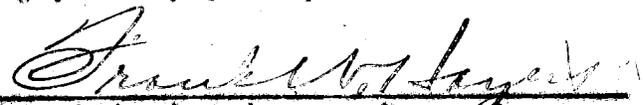
"Except as hereinafter provided, all state, county, township, city, town, village, school district, levee district and drainage district taxes shall be paid in gold or silver coin or legal tender notes of the United States, or in national bank notes. Warrants drawn by the state auditor shall be received in payment of state taxes. Jury certificates of the county shall be received in payment of county taxes. Past due bonds or coupons of any county, city, township, drainage district, levee district

or school district shall be received in payment of any tax levied for the payment of bonds or coupons of the same issue, but not in payment of any tax levied for any other purpose. Any warrant, issued by any county or city, when presented by the legal holder thereof, shall be received in payment of any tax, license, assessment, fine, penalty or forfeiture existing against said holder and accruing to the county or city issuing the warrant; but no such warrant shall be received in payment of any tax unless it was issued during the year for which the tax was levied, or there is an excess of revenue for the year in which the warrant was issued over and above the expenses of the county or city for that year."

Under Section 9911 warrants of the county may be used in payment of the taxes where the warrant was issued during the year which the tax was levied, and where there is an excess of revenue for the year in which the warrant was issued over and above the expenses of the county for that year. The purpose of the above section was to put the county on a cash basis, and the above section does not provide for the offset of a debt owed by the county to an individual. It only provides that warrants issued by the county may be used to pay taxes as provided in the section.

It is therefore the opinion of this Department that the fees due you are made criminal costs under Section 3855, and that they may be offset against delinquent back taxes, as provided in Section 3854. If the facts are such as do not bring your case within those two sections, then in view of section 9911, you are not entitled to an offset, but if you can obtain warrants for your indebtedness, such warrants may be used to pay taxes, subject to the restrictions contained in Section 9911, as above pointed out.

Very truly yours,


Assistant Attorney General.

APPROVED:

Attorney General.

FWR:8