

- COUNTY WARRANTS:
- (1) Warrants are acceptable in payment of taxes;
 - (2) The County Treasurer should accept and give credit to the collector for county warrants accepted in payment of taxes in the monthly settlement of the collector;
 - (3) Must the county warrant be presented by the original payee, or is it acceptable from the assignee?

October 17, 1933.

Hon. M.E. Montgomery,
Prosecuting Attorney,
Scott County,
Benton, Missouri.

Dear Sir:

This department acknowledges receipt of your letter of September 30, 1933 requesting an opinion from this office based on the following facts:

"This county, like most counties, does not have funds available to meet its current expenses, consequently, its protested warrants, issued against its several funds (County Revenue, Special Road & Bridge, etc.), are negotiated at a discount wherever the holder can find a purchaser. And the same situation obtains in many of our school, drainage and levee districts. Many such instruments are tendered to the County Collector for payment of taxes. In this connection, the Collector requests that I secure an opinion from you as to the following matters.

Is the Collector required to accept these instruments in payment of taxes, where the one presenting same owes taxes to the fund against which the instrument is drawn equal to or in excess of the amount of the instrument? For example, is the Collector required to accept a \$30.00 County Revenue warrant where the one tendering the warrant owes taxes to the County Revenue Fund of \$30.00 or more?

If the Collector does accept such instruments, whether required to or not, can he compel the County Treasurer to accept and give him credit for same on making his monthly turnover to the County Treasurer?

Does it make any difference whether the instrument is presented by the one to whom it is originally issued, or by a vendee thereof?"



I.

Warrants are acceptable in payment of taxes.

Under Sec. 9911, R.S. Mo. 1929 warrants are acceptable in payment of taxes under certain conditions, said section in full being 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."

By this section the warrants must (1) be presented by the legal holder; and (2) be issued and received in payment of a tax during the year for which the tax was levied.

Under this section, it is the opinion of this department that the warrants in question are acceptable for taxes, and the fact that a party presenting a warrant which is less in amount on the fund on which it is drawn than the taxpayer owes to the fund would make no material difference. He should be given credit for that amount on that particular fund.

II.

The county treasurer should accept and give credit to the collector for county warrants accepted in payment of taxes in the monthly settlement of the collector.

The authority for the county treasurer to accept warrants

and give the collector the proper credit is found under Sec. 12140, R.S. Mo. 1929, which is as follows:

"No county treasurer shall refuse the payment of any warrant legally drawn upon him and presented for payment, for the reason that warrants of prior presentation have not been paid, when there shall be money in the treasury belonging to the fund drawn upon, sufficient to pay such prior warrants and any such warrant so presented; but such treasurer shall, as he shall receive money into the treasury belonging to the fund so drawn upon, set the same apart for the payment of warrants previously presented for the ordinary current expenses of the county as mentioned in the preceding section, and in the order presented, so that no such warrant of subsequent presentation shall remain unpaid by reason of the holder of such warrants of prior presentation failing to present the same for payment after funds shall have accrued in the treasury for their payment: provided, however, that nothing herein contained shall prevent the treasurer from receiving from the collector all scrips and warrants lawfully received by him in the payment of county tax: provided further, before the treasurer shall receive such scrips and warrants, the collector shall make out a list of such scrips and warrants, under oath, specifying the number and amount thereof, the date when received, and from whom received; and said list shall be filed and preserved by the treasurer."

You will note in said section that it mentions specifically that the treasurer is not prevented from receiving from the collector such warrants. We therefore conclude that the treasurer should accept the warrants and give the collector proper credit in his monthly settlement.

III.

Must the county warrant be presented by the original payee, or is it acceptable from the assignee?

Under Sec. 12171, R.S. Mo. 1929, said section being as follows:

"No county treasurer in this state shall pay any warrant drawn on him unless such warrant be presented for payment by the person in whose favor it is drawn, or by his assignee, executor or administrator;

and when presented for payment, if there be no money in the treasury for that purpose, the treasurer shall so certify on the back of the warrant, and shall date and subscribe the same."

the treasurer is authorized to accept a warrant made payable to the person in whose favor it is drawn or by his assignee. The form of assignment that is necessary is set out in Sec. 12172, R.S. Mo. 1929, and is as follows:

"All warrants drawn on the treasurer of any county shall be assignable, and every assignment of any such warrant shall be in the following form:

For value received, I assign
the within warrant to A.B.,
this ___ day of _____, 19___.

(Signed) C.D.

No blank indorsement shall transfer any right to a warrant, nor shall it authorize any holder to fill up the same."

In view of the provisions of Sec. 12171, supra, if the treasurer has the authority to accept an assigned warrant in the last instance, then the collector should have the authority to accept an assigned warrant in payment of the taxes, and it is the opinion of this department that an assigned warrant can be presented by the assignee in payment of his taxes, provided the assignment is made in conformity with Sec. 12172, supra.

Respectfully submitted,

OLLIVER W. NOLEN, ---,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General

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