

COUNTY COLLECTOR - COUNTY CLERK.

Costs collectible from the taxpayer, when.

Collector entitled to pay for making list of delinquent taxes although not collected until term of office expires.

Sec. 9945 in 1933

June 28, 1934

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2

Honorable Leonard L. Alley
Clerk County Court
Princeton
Missouri

Dear Sir:

Letter of yourself and Mr. George dated May 19, 1934 was duly received by this Department. The letter is as follows:

"Regarding the collection of back taxes as set forth in Section 9945 of the 1933 law, we would like to have your opinion as to the following matters.

1. - Is the collector's cost for making the delinquent tax books in the amount of 10¢, (ten cents), and the clerk cost in the amount of 5¢ (five cents), as set forth in this section collectable from the taxpayer which would be an addition to the regular taxes?

2.- Does the collector who makes this back tax record have any claim for his fee in the events that this record is made just prior to the expiration of his term of office or can this amount be collected by the incoming collector and be retained by him?

3.- If the clerk's cost of 5¢, (five cents), per tract is collectable from tax payers should this amount be added to the regular 25¢, (twenty-five), per tract as set forth in section 9969 when transferring delinquent taxes to the consolidated back tax books, or is this amount dropped and the clerk

fees discontinued.

Trusting that this information will be furnished promptly in order for this county to render tax receipts payable on your opinion of this law, we are."

Section 9945 Laws 1933, page 426, is as follows:

"Hereafter as often as any delinquent tax list or tax bills shall be received by the county court or other proper tribunal or officer from collectors at their annual settlements, the same, except as to the list of delinquent lands, shall be made by the county clerk, and as to the delinquent lands the same shall be entered of record in the county collector's office by the collector, if in counties, and if in cities containing a population of five thousand or more inhabitants, by the proper officer, into a 'back tax book,' containing the same facts and in the same form as provided in sections 9948 and 9952, as to lands, city and town lots now delinquent; except that in counties where an alphabetical arrangement of the 'land list' in the assessor's book shall have been required by an order of the county court, such collector's record of the delinquent land list shall be made out in alphabetical order, in the name of the owner, if known, and if the owner be not known, then in the name of the person to whom the tract or lot was last assessed; the collector shall proceed to collect the taxes due thereon as provided in this chapter in reference to taxes now delinquent; all taxes hereafter becoming delinquent shall bear interest until paid as provided by section 9952, and shall also be subject to the same fees, commissions and charges as in this chapter provided for taxes now delinquent, except that for making and recording the delinquent land list, the collector who makes such book and the clerk or other officer who makes the 'back tax book' shall receive only ten cents per tract,

city or town lot, and the clerk for comparing and authenticating such record of the delinquent list of land and lots as made by the collector shall receive five cents per tract, city or town lot."

Section 9969 Laws 1933, page 429, reads:

"Fees shall be allowed for services rendered under the provisions of this article, as follows: To the collector, except in such cities, two per cent on all sums collected; in such cities, two percent on all sums collected - such per cent to be taxed as cost and collected from the party redeeming. To the county collector, for recording the list of delinquent land and lots, twenty-five cents per tract, to be taxed as cost and collected from the party redeeming such tract."

1.

The general rule is that laws imposing taxes are strictly construed against the taxing power and in favor of the person sought to be taxed, so that unless there is express authority for so doing costs and fees can not be collected from the taxpayer. We find no such authority in Section 9945.

2.

Section 9945 Laws 1933, page 426, provides that 'the collector who makes such book' shall receive the compensation for making same, so that we think the compensation for the preparation of such record by a collector prior to the expiration of his term of office, should be paid to the collector preparing such record although payment be made after his term of office expires.

3.

The opinion expressed in paragraph One hereof will answer your questions in your paragraph Three.

In addition to what is said above we call your attention to the fact that Section 9969 Laws 1933, page 429, provides

Honorable Leonard L. Alley

-4-

June 28, 1934

that the twenty-five cents per tract for recording the list of delinquent lands is to be taxed as costs and collected from the party redeeming such tracts. No such provision as this appears in Section 9945 above referred to.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General.

GL:LC