

TAXATION AND REVENUE METHOD OF COMPUTING BOND OF COUNTY COLLECTOR.

December 27, 1934.

FILED
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Honorable J. W. Guerrant,
County Collector-Elect,
Fulton, Missouri.

Dear Sir:

This department wishes to acknowledge receipt of your request for an opinion dated November 26, 1934, which reads as follows:

"I am writing you in regards to the County Collector's bond for Callaway County. Our County population, the last census taken, was about 19,970. Our last year's tax collection, largest week was approximately \$70,000, largest month \$100,000, total for the year \$125,000. Under the new law, what would be my bond? Who sets and approves my bond, the new County Court or the old County Court? Does the Court have to say in which bank deposits shall be made and should it be deposited to County Collector's fund to come under the law of 1933? The present Collector's fund is under the name of Ruby Wright Thomasson, Collector."

As you are probably aware, Section 9885 R. S. No., 1929, was repealed by the 57th General Assembly in 1933, and a new section 9885 was re-enacted, page 464, Laws of 1933, which reads as follows:

"Every collector of the revenue in the various counties in this state, and the collector of the revenue in the city of St. Louis, before entering upon the duties of his office, shall give bond and security to the state, to the satisfaction of the county courts, and, in the city of St. Louis, to the satisfaction of the mayor of said city, in a sum equal to the largest total collections made during any one month of the year preceding his election or appointment, plus ten per cent of said amount: Provided, however, that no collector shall be required to give bond in excess of the sum of seven hundred fifty thousand dollars, conditioned that he will faithfully and punctually collect and pay over all state, county and other revenue for the four years next ensuing the first day of March, thereafter, and that he will in all things faithfully perform all the duties of the office of collector according to law. The official bond required by this section shall be signed by at least five solvent sureties.

Provided, that in all counties which now have or which may hereafter have a population of less than 75,000 inhabitants, according to the last preceding federal decennial census, the county court in such counties may require the county collector thereof to deposit daily all collections of money in such depository or depositories as may have been selected by such county court pursuant to the provisions of Section 12184, Revised Statutes of Missouri for 1929, to the credit of a fund to be known as "County Collector's Fund;" provided further, that when such deposits are so required to be made, such county courts may also require that the bond of the county collector in such counties shall be in a sum equal to the largest collections made during any calendar week of the year immediately preceding his election or appointment, plus ten per cent of said amount; provided further, that no such county collector shall be required to make daily deposits for such days when his collections do not total at least the sum of One Hundred Dollars (\$100.00); and provided further the collector shall not check on such "County Collectors' Fund" except for the purpose of making the monthly distribution of taxes and licenses collected for distribution as provided by law or for balancing accounts among different depositories."

This law contemplates two methods for the collector to make bond and handle the moneys of the county:

The first method is very similar to the old law and requires the collector to give bond and security to the State, to the satisfaction of the county courts, in a sum equal to the largest total collections made during any one month preceding his election or appointment, plus ten per cent of said amount. Thus if \$100,000.00 was the largest monthly tax collection for the year preceding your election, then your bond would be \$100,000.00, plus ten per cent thereof, or a total of \$110,000.00.

The second method which applies to counties of less than 75,000 inhabitants, of which your county is one, the county court may require the county collector thereof to deposit daily all collections of money in such depository or depositories as may have been selected by such county court pursuant to the provisions of Section 12184 R. S. Mo., 1929, to the credit of a fund to be known as "County Collector's Fund." The use of the verb "may", as is underlined above, makes this method of procedure optional upon the part of the county court. If the county court sees fit to follow this portion of the statute, then it may also require that the bond of the county clerk in such counties be in a sum equal to the largest collections made during any calendar week of the

year immediately preceding his election or appointment, plus ten per cent of said amount. Thus in concrete terms, the county court may require in lieu of the bond above mentioned, a bond in the sum of \$70,000, the largest tax collection of any one week of last year in your county, plus ten per cent of that sum, or \$7,000.00, which makes a total bond in the sum of \$77,000.00.

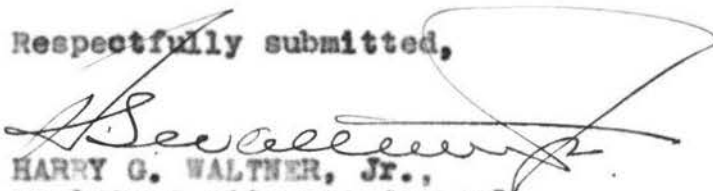
If you and the county court proceed under the first method as provided by statute, then handle the county moneys in the manner they have been handled in the past, making your monthly accounting to the county and state.

If you proceed under the second method, as provided by statute, then daily deposits will have to be made in the county depository selected by the county court and deposited to the credit of a fund to be known as "County Collector's Fund." This is true if the county court required such to be done.

The county court, as it is constituted, at the time you take office and present your bond for approval, is the court vested with the authority to prove or disapprove the bond you submit.

It is therefore the opinion of this office that your bond should be computed under either one of the two above methods set forth, depending upon which method the county court requires you to pursue; that the county court sitting at the time you take office is the proper body to approve said bond; that the county court, if it requires you to follow the second method, may at its option require you to deposit daily collections of money in the county depository selected by said court; that if such is done, the deposit must be made to the credit of a fund to be known as "County Collector's fund."

Respectfully submitted,


HARRY G. WALTNER, Jr.,
Assistant Attorney General

Approved:

ROY McKITTRICK,
Attorney-General.

HGW:MM