

TOWNSHIP TRUSTEE AS EX OFFICIO TREASURER:

Compensation on sums
received and disbursed.

1-22
January 5, 1934.

FILED

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Hon. Geo. B. Padget
Prosecuting Attorney
Davless County
Gallatin, Missouri

Dear Mr. Padget:

This Department is in receipt of your letter in which you request an opinion as to the compensation due the township trustee as ex officio treasurer, which letter is as follows:

"I am uncertain as to the exact meaning of Sec. 12310 R. S. 1929, referring to the remuneration for the services of a Township Trustee.

It reads in part "And provided further, that the township trustee as ex officio treasurer shall receive a compensation of two per cent. for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of one thousand dollars and one per cent. of all sums over said amount."

Now the question on which I desire your opinion is, if one thousand dollars, and no more, comes to his hands, I understand that the trustee is entitled to two per cent for receiving and disbursing said sum. Is that correct?

Then, in case a greater sum than one thousand dollars comes into his hands, is he entitled to two per cent on the first thousand, and one per cent on all sums

above one thousand, or is he only entitled to one per cent of all that comes into his hands, where more than one thousand dollars is received and disbursed by him?"

Your request calls for a construction of Section 12310 R. S. No., 1929, as amended by Laws of 1931, page 377, and particularly the latter portion of said section, which section is as follows:

"The township clerk, as clerk, the township trustee, as trustee, members of the township board, and judges and clerks of election, shall each receive for their services two dollars and fifty cents per day: Provided, that the township clerk shall receive fees for the following, and not per diem, for serving notices of election, or each: for filing any instrument of writing, ten cents; for recording any order or instrument of writing, authorized by law, ten cents for every hundred words and figures; for copying and certifying any record in his office, ten cents for every hundred words and figures, to be paid by the person applying for the same. And provided further, that the township trustee as ex officio treasurer shall receive a compensation of two per cent. for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of one thousand dollars and one per cent. of all sums over said amount."

In addition to Section 12310, referred to in your letter of request, we desire to direct your attention to Section 12290, R. S. No., 1929, which pertains to the duties of trustee and ex officio treasurer in counties under township organization, which section is as follows:

"He shall keep a correct account of all moneys coming into his hands by virtue of his office, from what source received, and what amount, of the amount paid out, to whom paid, and on what account, in a book to be kept by him and provided for the purpose by the township; said book to be kept in such a manner as to show the amount of money in his hands belonging to each school district or fractional part in the township and the amount of road money belonging to the township. He shall make settlement annually between the twentieth day of March and the fifteenth day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and he shall settle with the county treasurer within twenty days after the apportionment of the school funds to the school district, and receive all money in the hands of the county treasurer belonging to his township, and receipt for the same, and shall pay all warrants drawn on him by the board of school directors in his township out of the funds belonging to the district making the order, and he shall not pay any money out belonging to any other fund than that mentioned in the warrants, and he shall file with the township clerk on or before the day of the regular meeting of the township board in April a detailed statement of all money by him received and paid out, to whom and out of what fund, and the amount on hand, and at the expiration of his term of office he shall turn over to his successor all moneys, books and papers belonging to the office, and take duplicate receipts for the same, one to be filed with the township clerk, the other to be retained by himself."

This latter section in addition to other duties makes it the duty of the trustee ex officio treasurer to make annual

settlements "between the twentieth day of March and the fifteenth day of April with the county clerk."

Replying to the first question in your letter, it is our opinion that if the trustee as ex officio treasurer receives and disburses during the year a sum less than one thousand dollars he would be entitled to two per cent. on the sum which he received and disbursed.

And replying to the second question in your letter, it is our opinion that, should the trustee and ex officio treasurer receive and disburse during the year more than one thousand dollars, he would receive as his compensation two per cent. on the first one thousand dollars so received and disbursed, and one per cent. on all sums over said one thousand dollars received and disbursed. For example, if this official receives and disburses three thousand dollars in one year, that is, when he makes his annual report, he would receive as his compensation under Section 12130, supra, two per cent. on one thousand dollars and one per cent. on the remaining two thousand dollars.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

CRH:EG