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County Treasurer & Ex-Officio Collector

Act of 1933 reenacting
Sec. 12316, R. S. Mo.
1929, goes into effect
90 days after adjournment
or July 24, 1933, and from
that time on, rate of com-
mission is based on new
law.

June 21, 1934.

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Mr. J. S. Walker,
Treasurer & Ex-Officio Collector,
Linneus, Missouri.

Dear Mr. Walker:-

We have your letter of October 23, 1933, in which was con-
tained a request for an opinion as follows:

"Am just writing you for a little official
information, regarding the commission we should get under
this emergency law, for collection of 'back tax'.

"Under the old law, in Counties under
'Township Organization' we were allowed 5% commission,
the same to be charged as part of penalties, and collected
from the tax payer.

"Under the new law (Senate Bill #94) which
goes into effect Jan. 1st, 1934, we are allowed 2% commission.

"I have talked with several attorneys up in
this part of the State, and they all seem to think that a
part of a law cannot be placed in effect at one time, and
another part of the same law, at another time.

"Now the question is, should we charge com-
mission under the old rate of 5%, or under the new rate of
2%.

"That is, for this month (Oct.) 50% of the
original penalties are off, and I am charging commission
of 1%, or 50% of the new rate of commission, while almost
all of the collectors are charging 50% of the old rate of
5%, which is 2 1/2% for this month.

"Please tell me if I am losing out on part
of my commission, or am I correct?"

Section 12316, Revised Statutes of Missouri, 1929, provides
as follows:

"Sec. 12316. Treasurer's salary-- county
collector's commission.--The county treasurer in counties

adopting township organization shall be allowed a salary by the county court as at present provided by law, the county collector for collecting and paying over the same shall be allowed a commission of two per cent. on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and five per cent. on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes: Provided, he shall receive nothing for paying over money to his successor in office."

Section 12316, Laws of 1933, pp. 468-9, as reenacted provides as follows:

"Sec. 12316. Compensation of treasurer and collector.--The county treasurer in counties adopting township organization shall be allowed a salary by the county court as at present provided by law, the county collector for collecting and paying over the same shall be allowed a commission of two per cent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes: Provided, he shall receive nothing for paying over money to his successor in office."

Article IV, Section 36 of the Constitution of Missouri provides as follows:

"Sec. 36. Laws take effect, when--emergency, vote required.--No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal."

The date of adjournment of the legislature which reenacted the act in question was April 25, 1933; hence the act was reenacted should, since there is no emergency clause and no further provision, go into effect ninety days thereafter, or on July 24, 1933.

Mr. J. S. Walker

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June 21, 1934.

You were correct, therefore, in proceeding under the new law in October, 1933.

Very truly yours,

GHAS. M. HOWELL, Jr.
Assistant Attorney General

Approved:

Attorney General.