

TAXATION AND REVENUE:) Fees of county clerks and county collectors
COUNTY COLLECTORS:) Re: Delinquent land lists, back tax books;
COUNTY CLERKS:) and fee of county collector for delinquent
taxes.

6-28
June 28, 1935.



Hon. John C. Harlin
Collector of the Revenue
Ozark County
Gainesville, Missouri

Dear Mr. Harlin:

This is to acknowledge your letter as follows:

"Will you kindly render your opinion on Sec. 9950 S. A. 1933, Page 427, and state in your opinion whether the county court in making a compromise with a taxpayer on delinquent taxes due and unpaid have the right to reduce the fees due the clerk for making the back tax book and the collectors fees and commission for making the delinquent tax list.

"The fee of the former collector and clerk for making the back tax book is brought forward on the consolidated back tax book and collected as cost, and if the county court has any right to compromise the clerks and collectors fees for making the book I would like to know at once. This question is up at this time and I will appreciate your answer."

In State ex rel. Attorney-General v. Bair, 63 S. W. (2d) 64, 1. c. 66, the Supreme Court of Missouri, en Banc, said:

"The same rule necessarily applies to the other interveners, who as

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public officers have no contractual right as to their terms of office or their compensation or any vested right in either, the same being subject to legislative control. * * * * * The fees of the collector and his attorney and of the interveners are subordinate to the general legislative power to impose, increase, diminish, or remit penalties for tax delinquencies; and no vested right of any of them is impaired by the remission." (underscoring ours)

I.

COLLECTOR'S COMMISSION ON COMPROMISED
BACK TAXES.

On February 12, 1935, this Department rendered an opinion to Honorable Forrest Smith, State Auditor, concerning the collector's commission on compromised back taxes, ruling as follows:

"From the foregoing, it is our opinion that the collectors can only retain a commission on the amount of money actually collected, regardless of the face value of the tax bill."

We are enclosing herewith copy of that opinion.

II.

FEEES OF COLLECTOR FOR MAKING DELINQUENT
LAND LISTS AND FEES OF CLERK FOR MAKING
BACK TAX BOOK AND COMPARING AND AUTHEN*
TICATING SUCH.

Section 9945, Laws of Missouri, 1933, page 426, in part provides as follows:

"* * * * *; 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."

We invite your attention to the underscored part.

It is our opinion that the collector is entitled to a fee of ten cents per tract, city or town lot, for making and recording the delinquent land list, regardless of the face amount of the tax or whether or not said tax is compromised by virtue of Section 9950, Laws of Missouri, 1933, page 427.

It is our further opinion that the clerk or other officer who makes the back tax book is entitled to receive a fee of only ten cents per tract, city or town lot, and in addition thereto for comparing and authenticating such record of the delinquent list of land an additional fee of five cents per tract, city or town lot, regardless of the face amount of the tax or whether or not said tax is compromised by virtue of Section 9950, supra.

III.

FEE OF COUNTY COLLECTOR FOR RECORDING THE LIST OF DELINQUENT LAND AND LOTS.

Section 9969, Laws of Missouri, 1933, page 429, in part provides as follows:

"* * * 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."

It is our opinion that the county collector is entitled to a fee of twenty-five cents per tract for recording the list of delinquent land and lots, regardless of the face amount of the tax or whether or not said tax is compromised by Section 9950, supra.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General.

JLH:EG
Enc.