

TAXATION & REVENUE: Power and authority of county court to compromise with tax attorneys in suits against railroad companies.

March 30, 1937.

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Honorable G. Logan Marr
Prosecuting Attorney
Morgan County
Versailles, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of March 18th, relative to the compromise and settlement with the attorneys in the collection of taxes against the Rock Island Railroad, in Bankruptcy.

We note fully what you say relative to the history of this litigation and the employment of counsel to represent the county, and that the attorneys have secured for Morgan County the sum of \$1,052.62, by reason of a judgment secured in the Federal Court, as interest at the rate of six per cent from January 1, 1934 to November, 1934. No doubt the attorneys for the county rendered service to the county in securing this sum of \$1,052.62 and under the Bankruptcy Act, U. S. C. A., Title 11, Section 93, subdivision (j), penalties could not be collected, but under an opinion of this office rendered March 26, 1935, to the Prosecuting Attorney of Platte County, we were of the opinion that interest could be collected at the rate of six per cent. per annum.

We note in your letter that the attorneys for the county filed suit for the taxes, penalties, fees, commissions and attorneys' fees against the trustees of the Railroad Company, and that in view of the Bankruptcy Act cited above, they were foreclosed from collecting the penalties, fees, commissions and attorneys' fees. No doubt, in the prosecution of this suit, the attorneys have rendered service to the county for which the county court and collector should pay them for reasonable fees, and we are quite sure that all of the counties have not been so successful in collecting interest on these taxes as Morgan County.

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It is our opinion that the county court and collector have the power and authority to pay them a reasonable fee for these services, and the fee should be taken out of the \$1,052.62, and the collector's books should be adjusted accordingly.

It is our opinion that you, as Prosecuting Attorney, may advise the county court to adjust and compromise the differences between the county court and their attorneys. We, of course, think that any settlement which might be made would be entirely outside any contract which may be in existence between the county and the attorneys, and not under the contract itself.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General.

CRH:EG