

JURY SCRIP:
SCRIP RECEIVED IN PAYMENT
OF TAXES WHEN:

Jury scrips are not receivable in payment
of taxes for any year other than that for
which same are issued. Jury scrip payable
out of the funds of the year of issuance.

January 20, 1938

Mr. B. G. Dilworth,
Prosecuting Attorney,
Dent County,
Salem, Missouri.



Dear Sir:

This office acknowledges your request dated January 15, 1938 for an official opinion from this department which request is as follows:

"I have been requested by the County Court of Dent County, the County Treasurer and the County Collector to request your department's opinion on the following question:

The regular November Term, 1937, of our Circuit Court convened on the 4th Monday of November, 1937. It was in session for one week, and adjourned to meet on the 1st Monday of January, 1938, for a November Adjourned Term, 1937. At said adjourned term the regular petit jury was notified to be present, and also a special Grand Jury was ordered summoned which was done and it met and transacted business. For the services performed by the Petit Jury and Grand Jury commencing on January 3, 1938, the circuit clerk issued jury script to the petit and grand jurors for services and mileage. The County Collector has accepted a few of these script on 1937 County Taxes. I would like to know on behalf of the above County Officers of Dent County, whether such script for services entirely performed in the year 1938, is payable out of 1937 or 1938 county funds (Class 2, under budget) and whether such script is acceptable for and on 1937 or 1938 county taxes."

This request particularly refers to jury scrips issued prior to the date of the adoption of the budget by the county court and for what years for taxes such scrip shall be received

in payment of. On the law concerning payment of jurors, I find that Section 8765 R.S. Mo. 1929 provides as follows:

"Upon the demand of such juror, the clerk shall give him a scrip, verified by his official signature, showing the amount which such juror is entitled to receive out of the county treasury."

and Section 8767 provides as follows:

"The treasurer of the county is hereby required, upon the presentation to him of any scrips given by the clerk aforesaid, to pay the same out of any money in the treasury appropriated for county expenses, in the same manner and subject to the same rules as county warrants; and said scrip shall be received by the sheriff, collector or other proper officer in the payment of any debt due the county."

In Section 8, page 345 Laws of Missouri 1933 which contains the county budget act, it is provided:

"***** The county treasurer shall not pay nor enter protest on any warrant for the current year until such budget estimate shall have been so filed. (This shall not apply to warrants lawfully issued for accounts due for prior year, lawfully payable out of funds for prior years on hand). If any county treasurer shall pay or enter for protest any warrant before the budget estimate shall have been filed, as by this act provided, he shall be liable on his official bond for such act. Immediately upon receipt of the estimated budget the state auditor shall send to the county clerk his receipt therefor by registered mail.

Any order of the county court of any county authorizing and or directing the issuance of any warrant contrary to any provision of this act shall be void and of no binding force or effect; and any county clerk, county treasurer, or other officer, participating in the issuance or payment of any

such warrant shall be liable there-
for upon his official bond."

Section 1 of said budget act, page 341 Laws of Missouri 1933 provides as follows:

"The county court shall classify proposed expenditures according to the classification herein provided and priority of payment shall be adequately provided according to the said classification and such priority shall be sacredly preserved."

Section 2 of said act provides for the classification of expenditures of the county and the pay of jurors comes under class 2 of expenditures.

Section 3 of the act requires the officers to furnish by or before January 15 an estimate of the amount of county revenue needed to operate the respective office or department for the current year.

Section 4 of the act requires the county clerk to make a written report to the county court as to the amounts which will be necessary to operate for such year and the amount of expenses, in this report he is required to list any outstanding warrants and any outstanding obligations against the county. As the clerk is required to list outstanding warrants in this report, then such outstanding warrants which may be payable out of funds in a class prior to class 6, may be paid under class 6 of section 5, page 344 Laws of Missouri, 1933 of the budget act which provides:

"Amount available for all other expenses after all prior classes have been provided for. No expense may be incurred in this class until all the prior classes have been provided for. No warrant may be issued for any expense in class 6 unless there is an actual cash balance in the county treasury to pay all prior classes for the entire current year and also any warrant issued on class six. No expense shall be allowed under class six if any warrant drawn will go to protest. Provided, however, if necessary to pay claims arising in prior classes warrants may be drawn on anticipated funds in class six and such warrants to pay prior class claims shall be treated

as part of such prior funds. Nor may any warrant be drawn or any obligation be incurred in class six until all outstanding lawful warrants for prior years shall have been paid. The court shall show on the budget estimate the purpose for which any funds anticipated as available in this class shall be used."

If there are warrants outstanding at the end of the year, then such warrant loses its classification it originally had and passes to class 6 under the classification of expenditures.

I note in your request that you refer to warrants which are issued after December 31 and before the February term of the court. Section 8 of the budget act, page 345 Laws of Missouri 1933 provides that:

"It is hereby made the first duty of the county court at its regular February term to go over the estimates and revise and amend the same in such way as to promote efficiency and economy in county government.
*****."

It is at this term the duty of the county court to make up and adopt the budget as cited above. The treasurer is not authorized to pay nor enter protest on any warrant for the current year until such budget estimate shall have been so filed and the same section makes the treasurer and any other official violating it liable on his official bond for the violation of this act. It would therefore seem that the Circuit Clerk is not authorized to issue this scrip until the county budget is made up and adopted at the February term. I am enclosing a copy of an opinion from this office dated February 9, 1934 on this particular question.

On the question of whether the jury scrip which is issued in January is payable out of the 1937 or 1938 funds, it appears that under the county budget act the legislature intended that the business of the county should be done on a cash basis and to limit the current expenditures to the current revenues and that the books of the county should be closed on December 31 of each year.

Section 6 of the budget law provides:

"***** The estimate of each such officer shall cover the entire year beginning January first and ending December thirty-first, both dates inclusive. *****."

Then since the act requires the county clerk to list outstanding obligations and outstanding warrants in his estimate for the current year, it is evident that the legislated that such items be paid out of the funds for the current year that such estimate is submitted. As to which year such jury scrip shall be received in payment of taxes, I find that section 9911 R.S. Mo. 1929 provides as follows:

"Except as hereinafter provided, all state, county, township, city, town, village, school district, levee district and drainage district taxes shall be paid in gold or silver coin or legal tender notes of the United States, or in national bank notes. Warrants drawn by the state auditor shall be received in payment of state taxes. Jury certificates of the county shall be received in payment of county taxes. *****
Any warrant, issued by any county or city, when presented by the legal holder thereof, shall be received in payment of any tax, license, assessment, fine, penalty or forfeiture existing against said holder and accruing to the county or city issuing the warrant; but no such warrant shall be received in payment of any tax unless it was issued during the year for which the tax was levied, or there is an excess of revenue for the year in which the warrant was issued over and above the expenses of the county or city for that year. (R.S. 1919, 12903. Amended, Laws 1929, p. 432.)

The question whether the clause in said section 9911 providing that warrants shall be only received in payment of taxes which were levied in the year of the issuance of the warrant applies to jury scrip presents itself.

Section 8677 quoted above provides that such scrips are to be paid by the county treasurer as county warrants are and that same shall be received by the sheriff and collector or other public officer in payment of any debt due the county.

The sentence in said Section 9911 pertaining to paying the taxes with jury scrip does not contain any clause that they shall be received only for taxes levied for the same year the jury scrip is issued. However, we think this clause applies to jury scrip the same as it does to county warrants, for the reason that the money to pay such jury scrip comes from the general levy for county revenue, the same as the money for payment of county warrants. In the case of State ex rel. v. Payne, 153 Mo. 653, the court said:

"The evident purpose of sections 11 and 12 of article 10 of the Constitution was to provide that the business of the county should be done on a cash basis and to limit the current expenditures of the county to the current revenues."

The same constitutional and statutory reasons exist for confining such payments with the jury scrip to the payment of taxes levied during the year of the issuance of such scrip as applied to the payment with county warrants.

While there is some conflict in Sections 8767 and 9911 on this question, we are of the opinion that Section 8767 is general on the subject and that Section 9911 is a special statute on the same subject and that legislature intended that its provisions be followed and we are further fortified in this view by the provisions of the said sections 11 and 12 of article 10 of the Constitution which provides that the business of the county should be done on a cash basis and to limit the current expenditures of the county to the current revenues.

CONCLUSION

From the foregoing, this office is of the opinion that the jury scrip can only be received in payment of the taxes which are levied for the same year in which such scrip is issued; and that such scrip is payable only out of the county funds of the year of such issuance unless such scrip is protested. Then in that event it goes to class 6 of demands under the budget act against the county funds for any year thereafter and payable as provided by the said county budget act out of the funds set out in class 6.

Respectfully submitted,

TRYE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

TWB:DA