

ANIMALS

TAX ON DOGS:

License tax on dogs must be paid on or before February 1st.

November 30, 1938

Mr. E. S. Matteson
Extension Animal Husbandman
College of Agriculture
Columbia, Missouri



Dear Mr. Matteson:

This is in reply to yours of recent date wherein you requested an opinion from this department based on the following letter:

"Last spring I had some correspondence with you relative to the so-called dog law which was going to be voted on in some of the different counties in Missouri this fall. A number of these counties did submit this proposition to the voters and it carried. The information I would like to have at this time is when would this go into effect, and what would be the tax year on these dogs? This and any other information you can give me will be appreciated."

It seems from your letter that the question you have submitted is as to what date the county dog licenses shall be paid. This only applies to counties which have adopted the county dog law tax. The county assessor is required to make his assessments of property, real and personal, in the county as of June first of each year. He must have his forms completed by December 31st of the year. This requirement comes under the general law as to assessment of property. Section 12881, R. S. Mo. 1929, provides as follows:

"The assessors for taxation purposes in each county and city of this commonwealth shall annually, at the time of assessing property as required by law, make diligent inquiry as to the number of dogs owned, harbored or kept by any person so assessed. The assessor shall annually, on or before the thirty-first day of December, make a complete report, on a blank form furnished by the county clerk or license collector, setting forth the name of every owner of any dog or dogs, how many of each sex are by him owned or harbored, and if a kennel is maintained by any person such fact shall also be stated. It shall be the duty of the assessor, at the time of making the assessment, to notify the owner of such dog or dogs that he must obtain a license for the same as provided for in this article; but the neglect or failure so to notify such owner shall not relieve the owner from his duty to obtain such license."

By this section it seems to be the duty imposed upon the assessor to notify the owner of a dog that he must obtain a license for him. This is to be done at the time the assessor makes the assessment. However, this statute provides that should the assessor fail to so notify the owner, it does not relieve the owner from the criminal responsibility for failure to obtain a license for the dog, nor does it relieve him of the duty to obtain a license. Section 12881 also provides:

"If the majority of the votes cast upon the subject be in favor of license tax on dogs, the county court shall spread the result of such election upon its records and give notice thereof by publication in some newspaper printed and published in such county and such law shall

become operative from the time such publication is made. (Laws 1921, p. 679, Sec. 10)"

By this part of said section, when the proposition to license dogs in the county has carried and the results of the election are published, then the law becomes effective at once.

Section 12880 provides a penalty for failure to list and pay the tax on the dog. This section is as follows:

"Every owner of a dog and every person who shall suffer or permit a dog to remain upon such premises under his immediate control without having caused such dog to be listed and the tax thereon to be paid as provided for by this article shall be guilty of a misdemeanor, and on conviction thereof fined not less than five dollars nor more than twenty-five dollars. Provided, that none of the provisions of this article shall apply to cities which now have or may hereafter have a population of 300,000 inhabitants or more. (Laws 1921, p. 679, Sec. 9)"

By this section, a person is guilty of a misdemeanor upon failure to pay his dog license tax as provided by law. It would appear from the provisions of Section 12881, provided that the act goes into effect as soon as the results of the election are published, that a person would be violating the law by failing to obtain a license at once. However, Section 12872, Laws of Mo. 1937, p. 225, provides as follows:

"No dog shall be permitted to be and remain with, in the limits of the state unless the owner thereof, or someone for said owner, shall have caused such dog to be listed and the tax imposed by this article

to be paid on or before the first day of February of each year hereafter."

The annual rate of license tax is fixed by Section 12873, Laws of Mo. 1937, page 225, but no provision is made in this section for the splitting up of the license or the paying of a part of a year at a time. That being the case, we do not think that the county court, or any other official connected with the collection of the dog license tax, would have authority to split the tax or take payment for part of a year. The county officials must look to the act to determine their powers and duties. Absent the power to permit payment for the part of a year, the officers would be required to collect a full year's license.

As the assessor has until December 31st to make his returns of assessments of dog tax, and since the legislators have fixed only one date on which or before which the tax shall be paid, we think the license is due on or before February 1st of each year and that there would be no violation of the statute until a person fails to pay the license after February 1st.

CONCLUSION

It is, therefore, the opinion of this department that counties which have recently adopted the county dog tax license shall require the license to be paid on dogs on or before February 1, 1939, as provided by Section 12873, Laws of Mo. 1937, page 225, and that a failure to pay the tax before that time would not be in violation of the law as is provided by Section 12880, R. S. Mo. 1929.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General
TWB:RT