

LIQUOR.

County must pro rate license tax for period less than full license year as State is required to do under Sec. 4897, R. S. Mo., 1939.

June 3, 1944



Honorable Theodore R. Schneider
Prosecuting Attorney, Bates County
Butler, Missouri

Dear Mr. Schneider:

This will acknowledge the receipt of your letter of May 26, 1944, requesting an opinion of this office, which is as follows:

"The question has arisen as to whether the county can pro-rate the amount of its liquor licenses. Section 4897 of the statutes provide for the period of the license and permits pro-rating on the remaining months or parts of months during the year. Section 4898 provides for the amount of the licenses and Section 4904 provides for the amounts to be charged by the county and city limiting the amount charged to not exceeding one and one and one half times respectively of the state license.

"My interpretation, therefore, is that the counties and cities are required to pro-rate their licenses on the monthly basis or else they would be exceeding the amount for a period less than a year as limited by Section 4904.

"Will you kindly favor me with your opinion as to whether or not the county and city must pro-rate their license on the monthly basis as does the state. "

Sec. 4897, R. S. Mo., 1939, provides:

"On approval of the application and payment of the license tax herein provided, the supervisor of liquor control shall grant the applicant a license to conduct business in this state for

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a term to expire with the thirtieth day of June next succeeding the date of such license. A separate license shall be required for each place of business. Of the license tax to be paid for any such license, the applicant shall pay as many twelfths as there are months, (part of a month counted as a month) remaining from the date of the license to the next succeeding July 1st. * * *"

Thus we see that where an applicant applies for a license in August or some succeeding month after the license period begins on July 1st, the state must pro-rate the license to cover as many twelfths as there are remaining up to the next July 1st.

Sec. 4904 R. S. Mo., 1939, provides:

"In addition to the permit fees and license fees and inspection fees by this act required to be paid into the state treasury, every holder of a permit or license authorized by this act shall pay into the county treasury of the county wherein the premises described and covered by such permit or license are located, or in case such premises are located in the city of St. Louis, to the collector of revenue of said city, a fee in such sum (not in excess of the amount by this act required to be paid into the state treasury for such state permit or license) as the county court, or the corresponding authority in the city of St. Louis, as the case may be, shall by order of record determine, * * *"
(Underscoring ours).

Therefore, the county for the same period cannot charge a tax in excess of that charged by the state. The state must pro-rate the tax where the license will cover less than the full license year. To allow the county to charge the full tax in a case such as this would be to allow the county to charge a tax in excess of that charged by the state for the same period. It must, therefore, follow that where a person applies to the county for a license for a period less than the full license year the county must pro-rate the tax as the state is required to do under Sec. 4897 supra.

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CONCLUSION.

It is, therefore, the conclusion of this office that where a person applies to a county for an intoxicating liquor license under Sec. 4904, R. S. Mo., 1939, for a period less than the full license year, the county must pro-rate the tax as the state is required to do under Sec. 4897, R. S. Mo., 1939.

Respectfully submitted,

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Assistant Attorney General

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APPROVED:

ROY McKITTRICK
Attorney General.