

ROADS AND BRIDGES: Maximum tax levy for township expense is 20¢ per \$100
TAXATION: valuation, but when levies for county purposes and town-
TOWNSHIPS: ship expense total more than maximum levy provided in Sec.
11, Art. X, of Constitution, 80% of tax is paid to county
and 20% to township. Tax levy authorized by Sec. 8529,
H.C.S.H.B. 784, in addition to tax levy authorized by
Sec. 8820, H.C.S.H.B. 798.

April 18, 1947

FILED

84

Honorable Edward W. Speiser
Prosecuting Attorney
Chariton County
Keytesville, Missouri

Dear Sir:

This is in reply to your letter of recent date, requesting
an official opinion of this department, and reading as follows:

"I will appreciate an opinion from your of-
fice on the following proposition:

"There seems to be considerable confusion
in the minds of the various Township Boards
of this county concerning the limits of tax-
ation imposed on these respective adminis-
trative bodies by the new Constitution and
the laws enacted since its adoption.

"The Township organizations are particular-
ly concerned to know the limits of the levy
that the respective boards may make for
raising taxes for general township purposes.
The levy made by the County Court in this
county for general purposes is forty cents
on the \$100.00 assessed valuation. Some of
the Township Boards in this county state
that their current needs for general township
purposes will require as high as a fifty cent
levy in their townships in order to raise
such taxes to take care of their current needs.
In fact, some of them have already made fifty-
cent levies. The combined levies, therefore,
would be ninety cents for general County and
Township purposes. Would these be valid
levies? If the Boards can't legally make such
levies, could they be legally made by the sen-
timent of the voters? Section 11047 of Mis-

souri Revised Statutes Annotated - Re-enacted Laws, 1945, states that the combined rate for both county and township shall not exceed the maximum rate provided by the Constitution. Does this mean the maximum rate set out in Section 11, Article 10 of the Constitution, or does it refer to Section 26B and 26C of Article 6, or possibly some other section? If it refers to the first referenced section, does it mean that in this county where there is a levy of forty cents for county purposes, that the township would be limited to ten cents for general township purposes?

"Also, I wish to refer you to Section 8529, M.R.S.A. - House Bill No. 784 - Re-enacted Laws, 1945. This section provides that by the majority of the qualified voters voting, in any general road district an additional levy of thirty-five cents may be had for road and bridge purposes. I assume this is in addition to the thirty-five cents levy the Board may make as provided by Section 8820 M.R.S.A. Is this assumption correct?

"In general, we would like to have a statement of the laws concerning the townships' rights and limitations in regard to the levying of taxes for general purposes, and also, for road and bridge purposes.

"We have endeavored to find a solution from a careful study of the provisions of the new Constitution and the various laws enacted pursuant thereto, but we have been unable to arrive at any positive conclusion. Your help in straightening out these matters in our minds will be greatly appreciated.

"Due to the fact that these matters concern every taxpayer in this county, I would like to have an early reply."

Section 13985 of House Bill No. 904 of the 63rd General Assembly provides as follows:

"The township board of directors shall, annually, not less than twenty nor more than

sixty days prior to the first day of September, make out and file with the clerk of the county court of their county an estimate of the amount of money required to defray the expenses of said township during the next ensuing year. Said estimate shall be signed by the president and attested by the clerk of the board. The clerk of the county court shall cause the same to be placed on the tax books of said township: Provided that the amount of such expenses shall not exceed in any one year twenty cents on the hundred dollars assessed valuation of the taxable property within said township."

Section 11047 of House Committee Substitute for House Bill No. 468 of the 63rd General Assembly provides as follows:

"In all counties in this state which have now or may hereafter adopt township organization, if the amount of revenue desired and estimated by the county court for county purposes and the amount desired and estimated by any township board for township purposes shall together exceed the rate per cent on the one hundred dollars valuation allowed by Section 11 of Article X of the Constitution of Missouri 'for county purposes,' then it shall be the duty of the county court to apportion the tax 'for county purposes' between the county organization and the township organization in the following manner, to wit: Eighty per cent of the taxes which may be legally levied 'for county purposes' shall be apportioned to the county organization for county purposes, and twenty per cent of such taxes shall be apportioned to the township organization for the purposes provided by Section 13980 of the township organization law, as specified by the township board; but the combined rate for both the county and township organizations shall not exceed the maximum rate provided by the Constitution."

These two sections provide that (1) the township board shall make its estimate, which estimate shall not require a tax levy in excess of twenty cents per one hundred dollars, and (2) that

if the total of the levy for county purposes levied by the county court plus the tax levy required by the estimate of the township board exceeds the limit set by Section 11 of Article X of the Constitution, the maximum rate allowed by Section 11 of Article X of the Constitution shall be levied and eighty per cent of such levy shall go to the county and twenty per cent to the township.

In Chariton County, if the county court levies forty cents per one hundred dollars and the various township boards wish to levy more than ten cents per one hundred dollars for township expenses, the maximum levy will have to be made by the county court, that is, a levy of fifty cents per one hundred dollars, the maximum allowed by Section 11 of Article X of the Constitution, of which eighty per cent, or forty cents per one hundred dollars, will go to the county, and twenty per cent, or ten cents per one hundred dollars, will go to the township for its expenses.

We are unable to find any authority in the Constitution or laws of this state for an increase of tax rates for township expenses, by election or otherwise, over the rates allowed by Section 13985 of House Bill No. 904 and Section 11047 of House Committee Substitute for House Bill No. 468.

Your question regarding Section 8529 of House Committee Substitute for House Bill No. 784 of the 63rd General Assembly is answered by an official opinion of this department rendered under date of February 4, 1947, to Herbert S. Brown, a copy of which opinion we are enclosing.

We are also enclosing copies of official opinions of this department rendered under date of May 1, 1945, to R. Kip Briney, March 21, 1947, to Roy S. Miller, and March 24, 1947, to Herbert S. Brown, in answer to your request for a statement as to the laws concerning taxes for road and bridge purposes.

CONCLUSION

It is the opinion of this department:

(1) That Section 13985 of House Bill No. 904 of the 63rd General Assembly sets a maximum tax levy of twenty cents per one hundred dollars valuation for township expenses, and that under the provisions of Section 11047 of House Committee Substitute for House Bill No. 468 of the 63rd General Assembly, if the tax

Honorable Edward W. Speiser - 5

levy for county purposes and the tax for township expenses total more than the constitutional limit as set out in Section 11 of Article X of the Constitution, taxes collected from the maximum levy for county purposes shall be paid, eighty per cent to the county and twenty per cent to the township; and

(2) That a tax levy authorized by Section 3529 of House Committee Substitute for House Bill No. 784 is in addition to the tax levy authorized by Section 8820 of House Committee Substitute for House Bill No. 798 of the 63rd General Assembly.

Respectfully submitted,

C. E. BURNS, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

CBB:HR