

COUNTY COLLECTORS:
TAXATION:

Under provisions of House Bill No. 56 of 65th General Assembly, collectors do not receive additional compensation of one-half of one per cent of all current taxes collected on the real estate owned by a utility.

August 2, 1949

Mr. Hugh M. Atwell
Prosecuting Attorney
Miller County
Eldon, Missouri



Dear Sir:

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

"Will you please give me an opinion on the recent act of the House Bill No. 56.

"Section 3. provides that Collectors in Third Class Counties shall receive one-half of one per cent of all current taxes collected, ----- exclusive of all current railroad and utility taxes collected as compensation for mailing statements and receipts, under this Act.

Question

"Is the collector entitled to the above compensation on the taxes on the real estate owned by a utility that is carried on the real estate books?"

Section 3 of House Bill No. 56, 65th General Assembly, provides as follows:

"The collectors in third class counties shall receive one-half of one per cent of all current taxes collected, including current delinquent taxes, exclusive of all current railroad and utility taxes

collected, as compensation for mailing said statements and receipts. Said compensation shall be exclusive of and unaccountable in the maximum commissions now provided in Sections 11106 and 11107, Revised Statutes of Missouri, 1939."

Section 19, Laws of Mo. 1945, page 1825, provides as follows:

"Within ten days after the county court shall have levied the taxes on railroad property, as prescribed in the two preceding sections, the county clerk of such county shall extend the same on a separate tax book, to be known as the railroad tax book, in which he shall place, first, the total valuation of the roadbed and rolling stock of each railroad company, as assessed, equalized and apportioned to such county by the State Tax Commission, with the amount of state, county, municipal, township, city, town or village school taxes, and taxes for the erection of public buildings and for other purposes, levied thereon by the county court, stated separately; second, a description of each tract of land, town lot, or other real estate, including the machine and workshops and other buildings in numerical order, and tangible personal property, as returned by local assessors, and the amount of state, county, municipal, city, town or village school taxes, and taxes for the erection of public buildings, and for other purposes, levied thereon, stating each separately, and crediting school taxes and taxes for the erection of public buildings, and for other purposes, to the proper district or municipality."

(Emphasis ours)

Section 11295, Laws of Mo. 1945, page 1852, which section relates to taxes on utilities, provides in part as follows:

"* * * And taxes levied thereon shall be levied and collected in the manner as is now or may hereafter be provided by law for the taxation of railroad property in this state, and county courts, county boards of equalization and the State Tax Commission are hereby required to perform the same duties and are given the same powers in assessing, equalizing and adjusting the taxes on the property set forth in this section as the said courts and boards of equalization and State Tax Commission have or may hereafter be empowered with in assessing, equalizing, and adjusting the taxes on railroad property; and the president or other authorized officer of any such bridge, telegraph, telephone, electric power and light companies, electric transmission lines, pipe line companies, or express company or the owner of any such toll bridge, is hereby required to render statements of the property of such bridge, telegraph, telephone, electric power and light companies, electric transmission lines, pipe line companies, or express companies in like manner as the president, or other authorized officer of the railroad company is now or may hereafter be required to render for the taxation of railroad property. * * *"

Since it is provided by statute that the taxes on real estate owned by a railroad are to be entered in the railroad tax book and therefore are "railroad" taxes and since it is provided that the utility taxes shall be levied and collected in the manner as is now or may hereafter be provided for taxation of railroad property and taxes on real estate of a utility are "utility" taxes, we believe it to be clear that under the provisions of Section 3 of House Bill No. 56 that the extra compensation provided by such House Bill does not apply insofar as taxes on the real estate owned by a utility are concerned.

Mr. Hugh M. Atwell

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CONCLUSION

It is the opinion of this department that the extra one-half of one per cent paid to county collectors on all current taxes collected as provided by House Bill No. 56 of the 65th General Assembly is not paid the collector for taxes collected on the real estate owned by a utility.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

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APPROVED:

J. E. TAYLOR
ATTORNEY GENERAL