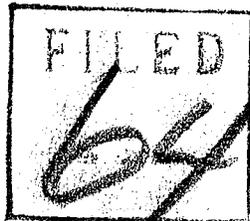


COUNTIES UNDER TOWNSHIP
ORGANIZATION:
COUNTY TREASURER AND EX-
OFFICIO COLLECTOR'S FEES:

In determining maximum amount to be re-
tained by county treasurer in counties of
the third and fourth class under township
organization, all taxes, including current
real and personal, are to be considered in
determining bracket under Sec. 52.260, RSMo
1949.



March 2, 1955

Honorable M. E. Morris
Director of Revenue
Jefferson Building
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion
of this department reading as follows:

"This department respectfully requests an
official opinion from your office on the
following question:

"Under Sections 52.260 and 52.270, R. S.
Mo., 1949, we would like to be advised
whether or not the current real and the
current personal taxes assessed and levied
in each county should be used in determin-
ing the sub-section that applies to the
maximum fees and commissions which may be
retained by the ex-officio collector in
counties under township organization, or
does Section 54.320 Laws of Missouri,
1951 supersede Sections 52.260 and 52.270
R.S. Mo., 1949 and therefore eliminate any
provisions for a maximum amount to be re-
tained by the ex-officio collector in
counties under township organization."

Section 54.320, Mo.RS, Cum. Supp., 1953, reads as follows:

"The county treasurer in counties of the
third and fourth classes adopting town-
ship organization shall be allowed a sal-
ary of not less than one hundred dollars
per month by the county court to be paid
as at present provided by law; the ex of-
ficio collector for collecting and paying
over the same shall be allowed a commis-
sion of three per cent on all corporation

Honorable M. E. Morris

taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes; he shall receive nothing for paying over money to his successor in office."

It will be observed that such official collects only corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, insofar as the commission of such official is paid by the state and its political subdivisions. Commissions on delinquent taxes are taxed under the statute against such delinquents and paid by them.

The problem which you have presented arises by virtue of Section 52.270, RSMo 1949, relating to the determination of the compensation to be allowed collectors. This statute provides in part as follows:

"* * * provided, however, that this section shall not apply to any county adopting township organization, so far as concerns the rate of per cent to be charged for collecting taxes, but shall apply to counties under township organization so far as to limit the total amount of fees and commissions which may be retained annually by the county treasurer and ex officio collector for collecting taxes in such counties; * * * * *" (Emphasis ours)

It will be observed that this portion of the statute does not refer to township collectors inasmuch as commissions of such officials are fixed under the provisions of Subsection 4, of Section 139.430, RSMo 1949.

The provisions of Section 52.270, RSMo 1949, by their terms incorporate into such statute, for the purpose of determining maximum commissions which may be retained, the brackets established under Section 52.260, RSMo 1949. The latter statute consisting of fourteen separate brackets, based upon total taxes assessed in the various counties, provides in part as follows:

"The collector, except in counties where the collector is by law paid a salary in lieu of fees and other compensation, shall receive as full compensation for his services in collecting the revenue, except

Honorable M. E. Morris

back taxes, the following commissions and no more:

"(1) In each county in this state wherein the whole state, county, bridge, road, school and all other local taxes, including merchants' and dramshop licenses, assessed and levied for any one year amount to five thousand dollars or less, a commission of ten per cent on the amount collected;

* * * * *

The brackets are in each instance determined by the " * * whole state, county, bridge, road, school and all other local taxes, including merchants' and dramshop licenses, assessed and levied for any one year * * * "

It will be noted that at no place in the statutory scheme for determining the maximum commissions allowed to collectors of revenue in any county does there appear any provisions eliminating any taxes from the total amount used in determining the maximum amount of such commissions nor the brackets applicable to such county. In other words, in determining the bracket used for fixing the maximum of such commissions to be retained, no legislative regard has been given to the fact that in counties under township organization the township collectors collect the current real and personal taxes and the county treasurer, as ex officio collector, is required to collect the corporation taxes, back taxes, licenses, merchants' tax, tax on railroads and delinquent taxes. In the absence of such exclusion, we are constrained to the belief that the whole of the taxes are to be used in determining the proper bracket.

CONCLUSION

In the premises, we are of the opinion that in determining the maximum collector's commissions which may be retained by a county treasurer as ex officio collector in a county of the third or fourth class under township organization, the whole of the state, county, bridge, road, school and all other local taxes, including merchants' and dramshop licenses, which have been assessed and levied for the current year, are to be considered in determining the appropriate bracket provided by Section 52.260, RSMo 1949, to be used together with Section 52.270, RSMo 1949, in fixing the maximum commissions allowed such officer.

Honorable M. E. Morris

The foregoing opinion, which I hereby approve, was prepared by my assistant, Will F. Berry, Jr.

Very truly yours,

JOHN M. DALTON
Attorney General

WFB:DA