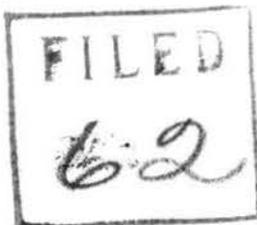


COUNTY HEALTH CENTERS:  
TAXES:

A county health center tax authorized by the voters before October 31, 1957 can be levied and collected for the year 1957. Power to determine annually the rate of the county health center tax is vested solely in the board of health center trustees.



October 16, 1957

Honorable Roy C. Miller  
Prosecuting Attorney  
Webster County  
Marshfield, Missouri

Dear Mr. Miller:

This is in answer to your opinion request to this office dated September 5, 1957, and reading as follows:

"The County Court of Webster County is in the process of submitting to the voters of our county the proposition of authorizing a tax for the operation of a county health center as provided by Sections 205.010 and 205.020, R.S. of Mo. 1949, as amended. I would appreciate an opinion from your office in regard to the following:

"1. If the proposition passes and the tax is authorized prior to the time that the county collector commences collecting taxes for the year 1957, may this new tax be placed on the books and collected for the year 1957?

"2. Does Section 205.020 require the first levy set after the election to be the maximum tax approved? If it does not have to be the maximum, is the original levy for the first year set by the County Court under Section 205.020, or is it set by the Board of Health Center trustees as provided in Section 205.042, Paragraph 9, and Section 205.045?"

Enclosed is an opinion of this office to Honorable Donald P. Thomasson, Prosecuting Attorney of Bollinger County, which holds

Honorable Roy C. Miller

that a tax rate certified to the county clerk after taxes have already been extended by the county clerk in the tax book is to be carried in a supplemental tax book, and which opinion answers your first inquiry. However, for the sake of clarity, we will render a more direct opinion to your first inquiry.

Sections 137.290, 137.310, RSMo 1949, respectively, read:

"137.290.--The assessor's book shall be corrected and adjusted not later than September first of each year. The clerk of the county court in each county, upon receipt of the certificates of the rates levied by the county court, school districts and other political subdivisions authorized by law to make levies or required by law to certify levies to the county court or clerk of the county court, shall then extend the taxes in the assessor's book, in proper columns prepared for such extensions, according to the rates levied; and shall on or before the thirty-first day of October of each year deliver the tax book with the rates extended therein to the collector. The assessor's book, with the taxes so extended therein, shall be authenticated by the seal of the court as the tax book for the use of the collector; and when the assessor's book is in two or more volumes, such extension shall be made in all such volumes, and each volume shall be authenticated by the clerk with the seal of the court. And upon a failure to make out such extension of taxes in the assessor's book or books, as the case may be, and deliver same to the collector not later than October thirty-first, the county court shall deduct twenty per cent from the amount of fees which may be due the clerk for making such extension, and such assessor's book, with the taxes so extended therein, shall be called the 'tax book.'"

"137.310. As soon as may be after the tax book of each year has been corrected and adjusted, and the amount of county tax stated therein according to law but not later than October thirty-first the county courts shall

Honorable Roy C. Miller

cause the same to be delivered to the proper collector, who shall give receipts therefor to the clerks of the county courts respectively; and each collector shall be charged by such clerk with the whole amount of the tax books so delivered to him."

Under the above provisions all taxes levied by the county court, the rates of which are certified by the county court to the clerk of the county court before October 31 of each year, are to be placed by the clerk of the county court on the assessor's book and are to be collected by the collector.

Section 137.300, RSMo 1949, provides:

"When for any cause there has been a failure to levy the state, county, school or other taxes, or any portion thereof, or to extend and authenticate the same for the use of the collector, or to make out and deliver to the collector a proper tax book for the collection of the same, as required by law, in any county for any year or years, the clerk of the county court of such county for the time being, when so required for such state taxes by the state tax commission, and for such county, school or other taxes by the county court, shall make a supplemental tax book for such year or years. Such supplemental tax books shall be made upon the assessments for the year or years for which the taxes should have been levied, or where there has been a failure to assess the property, upon the assessment made as required by section 137.295, the taxes for each year to be in a separate book and to be levied for such state, county, school and other taxes or portions of the same, as had failed to be levied and collected at the proper time. In making said supplemental tax book, and in all subsequent proceedings thereon, the county court, clerk of the same and the collector shall be governed by the same law as is now or at the time then being or may be in force for the same duties, and shall receive the same compensation as is now or at the time then being or may be provided by law for similar duties; provided, that whenever such taxes or any portion of

Honorable Roy C. Miller

them shall have been paid upon defective or illegal tax books, the amounts so paid shall not be charged in such supplemental tax books, and when any such taxes have been paid in full upon any property, the same with the description of the said property and the name of the owner thereof, shall be omitted from such supplemental tax book."

Under this section when there has been a failure by the county court to levy a tax and to certify the rate thereof to the clerk of the county court before October 31, 1957, the tax can be levied by the county court and the rate thereof certified to the clerk of the county court after October 31, 1957 and the tax must then be placed in a supplemental tax book to be prepared by the clerk of the county court and then forwarded to the collector for collection.

In view of the above setout statutory provision, it is the opinion of this office that if the voters of Webster County authorize by an election a tax for the operation of a county health center before October 31 then the county court, after being notified by the board of health center trustees as to what the health center tax rate is to be for 1957, can levy the health center tax and certify the rate thereof to the clerk of the county court either before or after October 31, 1957, and the tax is collectible by the collector for the tax year 1957.

In answer to your second question, Sections 205.011, 205.020 and 205.042, of House Bill No. 52, enacted by the 69th General Assembly, provided, in part, as follows:

Section 205.011.

"In any county in which a county health center has been established, the rate of tax which has been authorized by the vote of the people of the county shall continue as the maximum rate, and the board of health center trustees shall determine annually the rate of the tax levy up to, but not exceeding, this maximum."

Section 205.020.

"2. If a two-thirds majority of the votes cast at such election on the proposition so

Honorable Roy C. Miller

submitted, shall vote in favor of such tax, the county court shall proceed to levy and collect such tax and deposit same in the county treasury to the credit of the health center fund and such fund shall be expended as hereinafter provided."

Section 205.042.

"9. The board of health center trustees shall determine annually the rate of the tax levy, except that the rate so determined shall not exceed the maximum rate authorized by the vote of the people of the county."

Under the above provisions, after the voters by an election have authorized a health center tax and established the maximum rate of tax that can be levied for the county health center, the power to determine the annual rate of the county health center tax is vested exclusively in the board of trustees of the county health center. The board of trustees of a county health center determines annually the rate of the health center tax; informs the county court of the tax rate said board of trustees have decided upon and the county court then has the duty to levy and collect said health center tax and to deposit the taxes collected with the county treasurer to the credit of the health center fund.

The county court has no power to determine the annual rate of the health center tax, nor do the statutes require that the rate of the health center tax for the first year after the tax is authorized by the voters be the maximum rate established by the voters.

#### CONCLUSION

It is the opinion of this office that if the voters of Webster County authorize a county health center tax before October 31, 1957, then said health center tax can be levied and collected for the year 1957.

It is also the opinion of this office that the power to determine annually the rate of the county health center tax is vested solely in the board of health center trustees and that

Honorable Roy C. Miller

the county court has no power to determine the annual rate of the health center tax, nor do the statutes require that the maximum rate be levied the first year after the tax is authorized by voters of the county.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard W. Dahms.

Very truly yours,

John M. Dalton  
Attorney General

RWD:mw:hw

Enclosure