

COLLECTOR OF REVENUE:  
COUNTIES:  
COUNTY OFFICES:

Requirement that county provide facilities and items enumerated in Section 49.510 should prevail over requirement of Section 52.270 that collectors in counties included in classification of Section 52.260(14) should pay expenses of his office and other costs of collecting the revenue, as to items and facilities enumerated in 49.510.

January 19, 1962

FILED  
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Honorable W. T. Scott, Supervisor  
County Department  
Department of Revenue  
Jefferson City, Missouri

Dear Mr. Scott:

Your recent request for an opinion of this office reads as follows:

"Our department respectfully requests an official opinion on the following matter:

"Section 52.270 of Mo. RS states in part as follows:

"The collector of revenue in any county within the classification of subdivision (14) of section 52.260 shall present for allowance proper vouchers for all disbursements made by him on account of salaries and expenses of his office and other costs of collecting the revenue, which shall be allowed as against the commissions collected by him;"

"Our question is, with regard to collectors in counties covered by subdivision (14) of Section 52.260, what specific items should be classified as expenses of his office, and, other costs of collecting the revenue."

The statute you cite was brought into existence by Senate Bill 214 of the 71st General Assembly. The form of Section 52.270 in effect immediately prior to the time when

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Senate Bill 214 became law did not include a provision of the same nature as the one you quote, although we find that earlier statutes on this subject did have such provisions. The requirement that the collector "pay all salaries and other costs of collecting the respective revenues" found in Section 52.260 (14), R.S.Mo. 1949, was eliminated by Senate Bill 62 of the 70th General Assembly.

Shortly after Senate Bill 62 of the 70th General Assembly became law, this office issued an opinion at your request on the effect of that bill. In that opinion to you, dated December 30, 1959, it was held that payment of the operating expenses of collector's offices in third class counties within subdivision (14) of Section 52.260 would thenceforward be governed by Section 49.510, which is the general statute relating to payment of expenses of county offices by the county.

Section 49.510, R.S.Mo. 1959, provides as follows:

"It shall be the duty of the county to provide offices or space where the officers of the county may properly carry on and perform the duties and functions of their respective offices. Said county shall maintain, furnish and equip said offices and provide them with the necessary stationery, supplies, equipment, appliances and furniture, all to be taken care of and paid out of the county treasury of said county at the time and in the manner that the county court may direct."

The determinative issue herein then is the effect of the new Section 52.270, R.S.Mo. Cum. Supp. 1961, on the application of Section 49.510, R.S.Mo. 1959.

In an opinion issued by this office under date of April 3, 1959, to the Honorable Richard E. Snider, this office held, in effect, that Section 49.510 prevailed over the then existing provision requiring the collector to pay the expenses of his office insofar as rental of office space was concerned. The position taken in that opinion, a copy of which is attached, was that Section 49.510 placed a clear and unambiguous requirement on the county to provide the facilities and supplies enumerated therein, which requirement would obtain in all instances where it was not expressly overruled by another statute.

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Consistent with that opinion, we believe that the items and facilities enumerated in Section 49.510 are not "expenses of his office and other costs of collecting the revenue." Hence, your question is answered in negative terms in the sense that the expenses relative to securing the following items and facilities would not be chargeable against the collector's commissions: office space, the maintenance, furnishing and equipping of the collector's office with the necessary stationery, supplies, equipment, appliances and furniture. Section 49.510.

However, as recognized by the last cited opinion, there may be additional expenses which the collector would be obliged to pay. An example of such expenses would be salaries of deputies and clerical hire, as contemplated by Section 52.280, R.S.Mo. 1959.

Without attempting to catalogue every possible type of expenditure which would be included in the phrase "expenses of his office and other costs of collecting the revenue" as used in Section 52.270, R.S.Mo. Cum. Supp. 1961, let it be said that expenditures for items and facilities enumerated in Section 49.510 are not to be so classified, but that other operating expenses not included specifically or by necessary implication in that section would be chargeable against the collector's commissions.

#### CONCLUSION

Therefore, it is the opinion of this office that the application of the provision in Section 52.270, R.S.Mo. Cum. Supp. 1961, requiring collectors in counties within the classification of Subdivision (14) of Section 52.260 to pay for office expenses and collection costs, should be limited to expenditures other than for the items and facilities to be furnished by the county under Section 49.510. The provision of Section 52.270 in question should be invoked to require payment out of the collector's commission of items such as salaries of deputies and clerks as well as other expenses incidental to the performance of the collector's function and not otherwise provided for.

This opinion, which I hereby approve, was prepared by my Assistant, Albert J. Stephan, Jr.

Yours very truly,

AJS:BJ

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THOMAS F. EAGLETON  
Attorney General