

COUNTIES:  
COLLECTORS:  
TOWNSHIP ORGANIZATIONS:  
FEES AND SALARIES:  
COUNTY OFFICERS:

Section 52.270, RSMo 1959, limits the maximum fees and commissions on current taxes to be retained by collectors and ex-officio collectors and is not in conflict with Section 52.260, RSMo 1959.

Section 52.250, RSMo 1959, does not apply to ex-officio collectors.

OPINION NO. 66

April 8, 1963

Honorable David Thomas  
Prosecuting Attorney  
Carroll County  
Carrollton, Missouri



Dear Sir:

This opinion is given in response to your letter of January 11, 1963, requesting an official opinion of this office. You inquire,

" . . . as to (the) maximum amount an ex officio collector may retain of taxes collected in counties under township organization."

Your inquiry is twofold. First, whether Section 52.270, RSMo 1959, limiting the fees and compensations on current taxes allowed to be retained by collectors, is applicable to the ex-officio collector of Carroll County. Second, whether Section 52.250, RSMo 1959, providing for compensation for mailing certain statements and receipts, applies to the ex-officio collector of Carroll County.

We are informed that Carroll County is a county of the third class with township organization.

Section 54.280, RSMo 1959, provides that in township organized counties the county treasurer shall be ex-officio collector. Conversely, ex-officio collectors only exist in township organized counties. Section 54.320, RSMo 1959, provides the rate of compensation for ex-officio collectors.

Section 52.260, RSMo 1959, provides, "The collector in counties not having township organization shall collect and retain the following commissions \* \* \*." (Emphasis added.) Thereupon Section 52.260 sets out 14 classifications based

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upon "the total amount levied for any one year." We are informed the total amount levied in Carroll County would be within the limits of classification (13).

Section 52.270, RSMo 1959, provides, "No collector or ex-officio collector in the classifications indicated in subdivisions (1) to (13) of section 52.260 is allowed to retain commissions and fees provided thereby in any one year in excess of the following amounts: \* \* \* in any county coming within the provisions of subdivision (13) of section 52.260, not more than five thousand five hundred dollars. . . ." (Emphasis added.)

Since ex-officio collectors only exist in township organized counties, the words "not having township organization" effectively exclude ex-officio collectors from application of Section 52.260, RSMo 1959. Section 52.270, RSMo 1959, by express terms does apply to ex-officio collectors. However, Section 52.270 refers to the collectors and ex-officio collectors in the classifications indicated in Section 52.260. This reference to the classifications of Section 52.260 seemingly creates a conflict between the sections which is the subject of our present inquiry. Seemingly Section 52.270 provides for the maximum compensation of ex-officio collectors who come within the rate classifications of Section 52.260, whereas Section 52.260 does not apply to ex-officio collectors.

Statutes are presumed not to be in conflict. Rules of construction require that seeming conflicts be reconciled. All parts of a statute are to be construed in harmony, giving effect to every part if possible by any reasonable construction. *State v. Carolene Products Co., Mo.*, 144 SW2d 153, 155; *State v. Daves, Mo.*, 14 SW2d 990, 1001; *State v. Crouch, Mo.*, 316 SW2d 553, 554.

The seeming conflict here can be reconciled. Section 52.260 is twofold. First, it sets out certain classifications of counties, and second, uses these classifications as a scheme for setting out the rate of compensation of collectors in other than township organization counties (Section 54.320 sets out the rate for collectors in township organization counties, i.e., ex-officio collectors.) Section 52.270 expressly sets out the maximum limit of fees and compensation on current taxes to all collectors -- in township organization counties or otherwise. As a scheme for setting out these maximum limits, Section 52.270 borrows by reference the classification of counties

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provisions set forth in detail in Section 52.260; it does not borrow the rate provisions.

In other words, Sections 52.260 and 54.320 set out the rate of compensation for collectors and ex-officio collectors, respectively. Section 52.270 sets out the maximum fees and commissions on current taxes to be retained by both collectors and ex-officio collectors. This conclusion is evident when the legislative history of Sections 52.260 and 52.270, RSMo 1959, is analyzed.

Both Sections 52.260 and 52.270 were reworded by the Legislature in 1959 (Laws 1959, S.B. No. 62). Section 52.270 prior to 1959 provided:

" \* \* \* no collector, \* \* \* shall be allowed to retain commissions and fees in any one year in excess of the following amounts: \* \* \*,"

and also contained the following proviso:

" \* \* \* 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; \* \* \*."

Section 52.270, RSMo 1949.-

This proviso was added in 1933 (Laws of Missouri, 1933, p.p. 454, 456) to a former revision of this statute, viz., Section 9935, RSMo 1929, Section 11106, RSMo 1939. Section 11106 contained the provisions of what became both Sections 52.260 and 52.270, RSMo 1949. The wording of the above-quoted proviso was unchanged when the 1939 section was divided into two separate sections by the 1949 revision thereby leaving the entire proviso, quoted supra, in Section 52.270. In other words, the proviso, applicable to the whole original section, was left unchanged in a mere part of the original section by the 1949 revision.

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The knowledge that Sections 52.260 and 52.270, RSMo 1949, were formerly one section gives meaning to otherwise meaningless words of the quoted proviso. Where it is stated "this section shall not apply to any county adopting township organization so far as concerns the rate of percent to be charged for collecting taxes \* \* \*", obviously "this section" refers to that part of Section 11106 that became Section 52.260, RSMo 1949, since there is no provision whatsoever in the part of Section 11106 that became Section 52.270, RSMo 1949, for the rate to be charged, the rate provisions being solely in Section 52.260, RSMo 1949. Where it is stated "this section \* \* \* 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; \* \* \*", it is obvious that here "this section" refers to that part of Section 11106, RSMo 1939, which became Section 52.270, RSMo 1949, since only that part provides for limitation of commissions to be retained.

Apparently the Legislature in 1959 recognized the need for correcting the 1949 revision and therefore removed the proviso discussed supra from Section 52.270 and properly divided its application. The substance of the proviso applicable to Section 52.260 as explained supra was properly added to Section 52.260 by the words, "in counties not having township organization." Thereby clearly indicating that the rates set out in Section 52.260 do not apply to ex-officio collectors of township organization counties which had, of course, been the law all along set out by the proviso although confused by the 1949 division of former Section 11106, RSMo 1939. Also, the substance of the proviso which properly referred to Section 52.270 was attached by other terms to that section. Where the former statute 52.270, RSMo 1949, provided "no collector \* \* \* shall be allowed to retain commissions \* \* \* in excess of the following amounts: \* \* \*" and then by the proviso also applied the limits to ex-officio collectors, the 1959 amended statute was made expressly applicable to all collectors by the opening line, "No collector or ex officio collector \* \* \* is allowed to retain commissions \* \* \* in excess of \* \* \*." (Emphasis added.)

In sum, the 1959 amendments of Sections 52.260 and 52.270 did not change the law but merely properly reworded the 1949 revision. Section 52.270 setting forth the maximum fees and

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commissions on current taxes to be retained by both collectors and ex-officio collectors continues to apply to the ex-officio collector of Carroll County. State v. Ludwig, Mo., 322 SW2d 841.

As to your second inquiry, viz., whether Section 52.250, RSMo 1959, applies to the ex-officio collector of Carroll County:

Section 52.250, RSMo 1959, provides:

" \* \* \* collectors in third class counties shall receive one-half of one per cent \* \* \* of all current taxes collected \* \* \* as compensation for mailing said statements and receipts." (Emphasis added.)

Obviously the phrase "said statements and receipts" has no independent meaning but refers to some other statutory provision. The referred to provision is Section 52.230, RSMo 1959, which provides:

"Each year the collectors of revenue in all second, third and fourth class counties of the state, not under township organization, shall mail to all resident taxpayers, at least fifteen days prior to delinquent date, a statement of all real and tangible personal property taxes due and assessed on the current tax books in the name of the taxpayers. Collectors shall also mail tax receipts for all the taxes received by mail." (Emphasis added.)

Section 52.250 cannot be read without reference to 52.230. The sections are dependently related and the exclusion of township organized counties in Section 52.230 necessarily applies to Section 52.250.

#### CONCLUSION

It is therefore the conclusion of this office that the 1959 amendment of Sections 52.260 and 52.270 reworded but did not change the application of those sections and that Section 52.270, RSMo 1959, sets forth the maximum fees and commissions

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on current taxes allowed to be retained by both collectors and ex-officio collectors and continues to apply to the ex-officio collector of Carroll County.

It is further the conclusion of this office that since Carroll County is a township organized county and such counties are excluded from the application of Sections 52.230 and 52.250, RSMo 1959, that Section 52.250 does not apply to the ex-officio collector of Carroll County and therefore he is not entitled to the additional compensation therein provided.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Louis C. DeFeo, Jr.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

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