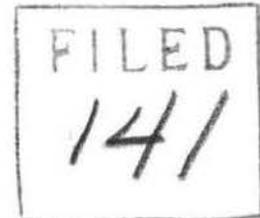


July 14, 1964



Honorable Brunson Hollingsworth
Prosecuting Attorney
Jefferson County
Courthouse
Hillsboro, Missouri

Dear Mr. Hollingsworth:

This letter is in answer to your request for an opinion of this office on the questions whether the collector of Jefferson County may properly charge the clerk's and collector's fees on each tract of real estate for delinquent taxes provided for in Section 140.100, RSMo, and whether the collector may charge a commission of two percent of all sums collected pursuant to Section 52.290, RSMo Cum. Supp. 1963.

Section 52.361, RSMo 1959, governs the situation with respect to delinquent lists in second class counties. Said section provides as follows:

"It shall be the duty of the county collector in class two counties to prepare and keep in his office back tax books which shall contain and list all delinquent taxes on real and personal property levied and assessed in the county which remain due and unpaid after the first day of January of each year. Such back tax books shall replace and be in lieu of all 'delinquent lists' and other back tax books heretofore prepared by the collector or other county officer."

It is clear that the fees provided in Section 140.100, RSMo, are not applicable to second class counties because such fees are chargeable only for services of the clerk and collector in connection with "delinquent lists" no longer prepared in second class counties.

Honorable Brunson Hollingsworth -2-

Section 52.290, RSMo, allows the collector a commission on delinquent and back taxes of two percent of all sums collected. This refers to the collectors of all counties and is, therefore, a legal charge; however, such commissions must be turned over to the county treasury of second class counties and the collector is accountable therefor. This is by virtue of Section 52.420, RSMo Cum. Supp. 1963, and Section 52.430, RSMo, providing that in second class counties the collector's salary shall be "in lieu of all fees, commissions, penalties, charges and other compensation now charged, received or allowed by virtue of any statute, to any such collector as compensation for his services", and forbidding collectors from retaining any other compensation.

Further, Section 50.350, subsection 1, RSMo Cum. Supp. 1963, provides:

"It shall be the duty of every county officer, in all counties of the second class, who shall be paid an annual salary in lieu of all fees, penalties, commissions, charges, emoluments, and moneys due him or his office for any service performed, to charge, collect and receive, upon behalf of the county, every fee, penalty, commission, charge, emolument and money that accrues in his office for any service rendered, by virtue of any statute of this state, except such fees as are chargeable to the county."

This statute requires the county collector of a second class county to turn over to the county treasury all statutory fees, penalties, etc., that accrue to his office.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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