

ASSESSORS: The preceding twelve month period for which
COUNTY CLERKS: payments to a county assessor in a third class
COUNTY WARRANTS: county not having township organization under
Section 53.143, RSMo Cum. Supp., 1963, is based
is the preceding twelve-month period beginning September first and
ending August thirty-first. The county treasurer should issue the
warrants for such payments although the county clerk shall perform
all duties relating to the social security contributions in respect
to those payments.

Opinion No. 349

November 9, 1964



Honorable Bob F. Griffin
Prosecuting Attorney
Clinton County
223 East Third Street
Cameron, Missouri

Dear Mr. Griffin:

This is in answer to your recent request for an official
opinion of this office concerning Sections 53.143 and 53.147,
RSMo Cum. Supp., 1963, which reads in part as follows:

"First, are the payments which begin
January 31, 1965, based upon the amount
due the assessor for the preceding 12
month period; thus, requiring a certifi-
cation by the county clerk prior to
January 21, 1965, as to the amount due
the assessor for the preceding 12 month
period?

"Second, this law in Section 2 (1) provides
that the payments due from the county shall
be made by a county warrant issued by the
county treasurer of the assessor's county,
which of course requires something which the
county treasurer has never heretofore done
i.e. issue county warrant. Does this mean
that the county treasurer will now have to
have warrants made up and make these payments
in this manner? Also, does the county clerk
or the county treasurer handle the matter of
withholding taxes and f.i.c.a. taxes in respect
to these payments to the county assessor?"

In answer to the question regarding the particular period
of time referred to, Subsection 1 of Section 53.143, RSMo Cum.
Supp., 1963, reads as follows:

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"1. Every county assessor in a third class county, except counties having township organization, shall receive his compensation for the twelve month period beginning September first and ending August thirty-first, in the following manner: On the last day of January and on the last day of each of the next consecutive four months he shall receive from the county and from the state, a sum equal to fifteen per cent of the amount due from each of them to the assessor of that county in the preceding twelve month period. As soon as practical thereafter, he shall receive an amount from the county and from the state which, when added to the amounts received in the preceding five payments from each of them, will result in his having received the total compensation due him for the twelve month period."

The phrase, "the preceding twelve month period" which follows the colon, refers to the previously mentioned "twelve month period beginning September first and ending August thirty first". The use of the colon and the phrase "in the following manner:" supports this construction.

Section 53.147, RSMo Cum. Supp., 1963, reads as follows:

"The county clerk of each county of the third class and not having township organization shall, not later than June fifteenth, 1965, and each June fifteenth thereafter, certify to the treasurer of his county and the director of revenue the amount due the assessor of his county for the current twelve month period."

Thus, the first certification is to be rendered not later than June 15, 1965; it is, therefore, not necessary for the county clerk to make his certification prior to January 31, 1965.

As to the question of which officer prepares the warrant, Section 53.145, RSMo Cum. Supp., 1963, is controlling and reads as follows:

"The payments provided for in section 53.143 shall be made in the following manner:

"(1) Each payment due from the county shall be made by county warrant issued by the county treasurer of the assessor's county; and

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"(2) Each payment due from the state shall be made by a check issued by the state treasurer."

Subdivision 1 of this section specifically provides for the issuance of the county warrant by the county treasurer of the assessor's county. General provisions relating to the issuance of county warrants are found in Section 50.180, RSMo 1959, which reads as follows:

"When the county court shall ascertain any sum of money to be due from the county, as aforesaid, such court shall order its clerk to issue therefor a warrant, specifying in the body thereof on what account the debt was incurred for which the same was issued, and unless otherwise provided by law, in the following form:

"Treasurer of the county of :
Pay to dollars, out
of any money in the treasury appropriated
for ordinary county expenditures (or express
the particular fund, as the case may require).

"Given at the courthouse, this . . . day of
., 19 . . ., by order of the county
court.

"Attest: C D, clerk. A B, president."

Where there is a repugnancy between a general and specific statute, as in this instance, Missouri courts have long followed the established rule of statutory construction that the two laws which relate to the same subject must be read together, and the provisions of one having special application to a particular subject is a qualification of, or exception to the general statute. *Veal v. City of St. Louis*, 289 SW2d 7, 365 Mo. 836.

There being no provisions concerning the manner in which the withholding and social security contributions are to be made, Section 51.165, RSMo 1959, controls. This section reads as follows:

"In all counties of class three and four which shall enter into an agreement with the state agency to place county employees under the Federal Social Security Act in accordance with the provisions of sections 105.300 to 105.450, RSMo, it shall be the duty of the county clerk to keep necessary records, collect contributions of county

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employees and remit the same to the state agency, and do all other administrative acts required by the agreement or by ruling of the federal or state agency in order to carry out the purposes of the aforesaid law."

Conclusion

Therefore, it is the opinion of this office that (1) the preceding twelve month period for which payments to a county assessor in a third class county not having township organization under Section 53.143, RSMo Cum. Supp., 1963, is based, is the preceding twelve-month period beginning September first and ending August thirty-first, (the amount due for the current twelve-month period being certified by or on June 15th as required by Section 53.147, RSMo Cum. Supp., 1963); and (2) the county treasurer should issue the warrants for such payments although the county clerk shall perform all duties relating to the social security contributions in respect to those payments.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Thomas E. Eichhorst.

Very truly yours,



THOMAS F. EAGLETON
Attorney General