

TAXATION: County collectors are entitled to charge to
MERCHANTS TAX: and collect from persons paying merchants and
MANUFACTURERS TAX: manufacturers taxes that become delinquent
January 1, 1966, and January 1 each year
thereafter the two per cent commission allowed
for the collection of delinquent and back taxes pursuant to Section
52.290 RSMo, in addition to the interest and penalties provided by
Senate Bill No. 356, 73rd General Assembly, Section 150.235 RSMo
Cum. Supp. 1965.

January 12, 1966

OPINION NO. 66 (1966)
OPINION NO. 434 (1965)

Honorable Haskell Holman
Auditor of the State of Missouri
Jefferson City, Missouri



Dear Mr. Holman:

This letter is in response to your request for an opinion of
this office on the questions you have stated as follows:

"1. Under the provisions of Senate Bill 356
enacted by the Seventy-Third General Assembly
shall the Collector of Revenue charge penalty
on delinquent merchant and manufacturer tax
collections at the rate of one per cent per
month for each month of delinquency plus a
flat ten per cent, or is it to be interpreted
to be only one per cent per month not to ex-
ceed, in the aggregate, ten per cent per annum?

"2. Will county collectors be entitled to
charge to and collect from the parties paying
merchants and manufacturers taxes that become
delinquent January 1, 1966 and January 1 each
year thereafter the two per cent commission
allowed for the collection of delinquent and
back taxes as set forth in the provisions of
Section 52.290 RSMo 1959? If not, what part,
if any, of the penalties provided in Senate
Bill 356 will a collector be entitled to re-
tain as compensation for the collection of
delinquent merchants and manufacturers taxes?"

We enclose a copy of the opinion of the Attorney General
No. 371 To Honorable Donald J. Stohr dated November 8, 1965, which

Honorable Haskell Holman

supplies the answer to your first question. The enclosed opinion holds that Senate Bill 356, 73rd General Assembly, Section 153.235 RSMo Supp. 1965, provides for interest on delinquent merchants and manufacturers taxes at the rate of ten per cent per annum (five-sixths of one per cent per month), in addition to a penalty of one per cent per month, which penalty is not to exceed a total of ten per cent for each year the tax is delinquent.

Respecting the second question as to whether County Collectors are entitled to receive the 2% commission for collection of delinquent merchants and manufacturers taxes under Section 52.290 RSMo 1959.

Section 52.290 provides:

"In all counties the collector shall be allowed a commission for the collection of delinquent and back taxes of two per cent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax."

The Supreme Court in *American Airlines, Inc. v. City of St. Louis*, 368 S.W. 2d 161, 168, commented on this statute as follows:

"And all county collectors are allowed a commission for the collection of delinquent and back taxes by Section 52.290, of two per cent on all sums collected, to be added to the tax bill and paid by the party paying the tax."

The Court then ruled that the Collectors' Commissions should be collected in addition to other penalties allowed by law. Since Section 150.235 RSMo Cumulative Supplement 1965 (Senate Bill 356) does not exclude the operation of Section 52.290 we hold that both Sections apply to such delinquent taxes.

CONCLUSION

It is the opinion of the Attorney General that county collectors are entitled to charge to and collect from persons paying merchants and manufacturers taxes that become delinquent January 1, 1966, and January 1 each year thereafter the two per cent commission allowed for the collection of delinquent and back taxes pursuant to Section 52.290 RSMo, in addition to the interest and penalties provided by Senate Bill No. 356, 73rd General Assembly, Section 150.235 RSMo Cum. Supp. 1965.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Donald L. Randolph.

Very truly yours,



NORMAN H. ANDERSON
Attorney General