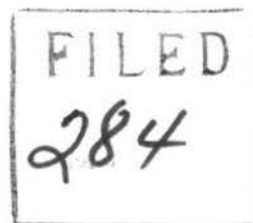


ASSESSORS: Neither the collector nor assessor
COLLECTORS: of the City of St. Louis may charge
ST. LOUIS CITY: fees for issuing statements certifi-
taxes are owing for the preceding year to persons who are entitled
to such statements under Section 301.025, RSMo 1969.

OPINION NO. 284

June 28, 1971



Honorable James F. Conway
Representative, District 65
3811 Flora Place
St. Louis, Missouri 63110

Dear Representative Conway:

This is in response to your request for an opinion on the following question concerning the personal property tax receipt needed to obtain a motor vehicle license.

"Does the St. Louis City Assessor have the authority, first, to issue a tax receipt or a "clearance" indicating that no taxes are due, and, secondly, does the St. Louis City Collector or St. Louis City Assessor have the authority to charge a fee for issuing a tax receipt or a "clearance" indicating that no taxes are due?"

As your request points out, Section 301.025, RSMo 1969, provides:

"No state registration license to operate any motor vehicle in this state shall be issued unless the application for license is accompanied by a tax receipt or a statement certified by the county or township collector of the county or township in which the applicant's property was assessed showing that the state and county tangible personal property taxes for the preceding year have been paid by the applicant or that no such taxes were due. Every county and township collector shall give each person a tax receipt or a certified statement of tangible personal property taxes paid. Where no such taxes are due each such collector shall, upon request, certify such fact and transmit such statement to the person making the request.

Honorable James F. Conway

The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms."

With respect to the collector of the City of St. Louis, Section 52.220, RSMo 1969, provides:

"The collector of the city of St. Louis shall collect the state taxes in the limits of said city in the same manner and to the same extent, and do and perform all other things and matters appertaining thereto, as fully to all intents and purposes as now required, or which may be required, of the county collectors."

The duties of the assessor of the City of St. Louis are found in Sections 82.540 through 82.590, RSMo 1969. Those sections make no provision for the assessor issuing the type of certified statement required to obtain a state motor vehicle registration under Section 301.025, RSMo 1969. Since a public official only has such authority as is conferred by law, it is the opinion of this office that the assessor of the City of St. Louis has no authority to issue statements necessary to obtain a state motor vehicle license or to charge for such statements.

With respect to the St. Louis City collector, under Section 52.220, supra, he is required to perform the duties in the City of St. Louis as are required of the county collector in other portions of the state. Therefore, it is the St. Louis City collector's responsibility when requested to issue the receipt contemplated by Section 301.025, RSMo 1969, when his records show that an applicant for a state motor vehicle license owes no personal property tax.

We find no statutes that authorize a fee for such a statement. Article VI, Section 12 of the Missouri Constitution provides:

"All public officers in the City of St. Louis and all state and county officers in counties having 100,000 or more inhabitants, excepting public administrators and notaries public, shall be compensated for their services by salaries only."

Therefore, the St. Louis County collector is not entitled to compensation by way of a fee for performing the statutory duty required by Section 301.025, RSMo 1969, in issuing a statement that no personal property taxes are owing.

Honorable James F. Conway

The question of whether he may collect such a fee for the benefit of the City of St. Louis, and not as compensation, must also be considered. We find no statutory authorization for such a fee. The general rule is found in McQuillin on Municipal Corporations, Volume 10, paragraph 29.08, where it is stated:

"A city may not enter into a contract under which it exacts compensation from a citizen for the performance of a public duty imposed on it by law, either expressly or by implication. . . ."

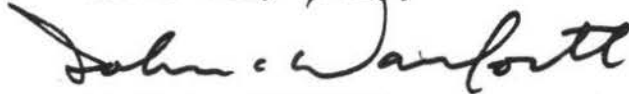
The Supreme Court of Missouri has reached a conclusion consistent with that general rule. In *State ex rel. State Highway Commission v. Union Electric Co. of Missouri*, 142 S.W.2d 1099 (St.L. Ct.App. 1940), the court held that since a public utility has a right by statute to use a public highway for its poles, lines, etc., the State Highway Commission was without authority to collect compensation from the utility for exercising the right which was given them by law. Therefore, absent statutory authorization, the City of St. Louis may not charge individuals for the statements that the city collector is required to issue under Section 301.025, RSMo 1969.

CONCLUSION

It is the opinion of this office that neither the collector nor assessor of the City of St. Louis may charge fees for issuing statements certifying that no personal property taxes are owing for the preceding year to persons who are entitled to such statements under Section 301.025, RSMo 1969.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Charles A. Blackmar.

Yours very truly,



JOHN C. DANFORTH
Attorney General