

COUNTY TREASURERS:
COMPENSATION:
COUNTY OFFICERS:
OFFICERS:

Section 146.056, RSMo, which requires certain duties of county treasurers with respect to the state intangible tax has been repealed by implication and such treasurers are not entitled

to the additional compensation provided by Section 54.275, RSMo for such services no longer rendered by them.

OPINION NO. 351

November 8, 1974

Honorable John D. Ashcroft
State Auditor of Missouri
State Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Ashcroft:

This opinion is in response to your question asking:

"Will County Treasurers be entitled to the additional compensation under Section 54.275, RSMo. 1969, for the year of 1974 for the additional duties imposed upon them by Section 146.056, RSMo. 1969? Is it required that the County Treasurer forward to the Director of Revenue a list of the additional names as mentioned in 146.056, RSMo. 1969 even though this list will not have value because 1974 is the last year for collection of the intangible tax?"

"If this list is not required what specifically must be done by the Treasurer to receive compensation pursuant to 54.275?"

You also state that:

"Section 54.275, RSMo. 1969 provides that County Treasurers shall receive additional compensation for the duties imposed upon them by Section 146.056, RSMo. 1969. However, this Section also provides the Treasurer shall use diligence in securing and preparing the list of additional persons to whom he has

Honorable John D. Ashcroft

sent intangible tax forms. The Revenue Department uses this list to prepare address labels for the next year's intangible tax forms which are sent out.

"According to Attorney General's Opinion No. 308-1973, Spradling, the year 1974 is the last year which a liability can be incurred for the intangible tax, but the liability is based upon the yield of intangible personal property during 1973, and therefore the final date for filing intangible tax returns will be April 15, 1974."

The legislative history of the repeal of the intangible tax law is rather complex. House Bill No. 537 was introduced in the 76th General Assembly, Second Regular Session, with the apparent intent to amend the laws but not to repeal them. Various changes were made in such bill during its journey through the legislative processes and as finally passed and approved, C.C.S.H.B. No. 537 ultimately had the effect of repealing Sections 146.010, 146.020, 146.030, 146.050, 146.080 and 146.120, RSMo 1969, all relating to the tax on intangible personal property. Before the effective date of the repeal, January 1, 1975, Senate Bill No. 254 of the 77th General Assembly, First Regular Session, amended Section 146.010, RSMo 1969, by repealing such section and enacting a new section in lieu thereof designated as Section 146.011, which latter section expressly terminates December 31, 1974, and at the same time repealed Sections 146.020, 146.030, 146.080 and 146.120, RSMo 1969 and 146.050, RSMo Supp. 1971, as of January 1, 1975. The end effect was similar to that of House Bill No. 537.

It is not clear why certain sections of Chapter 146 were not repealed. Among those sections not repealed are Section 146.055, RSMo 1969, which requires the Director of Revenue to furnish tax forms to county treasurers, and Section 146.056, RSMo, which requires county treasurers to mail tax forms to intangible taxpayers. It is somewhat easier to understand why the separate section, Section 54.275, RSMo, providing for compensation for the county treasurer for the duties performed, was overlooked.

It is our view that the duties required by the above sections relative to the intangible tax law, which no longer serve any purpose in view of the repeal of the law, are repealed by implication.

Therefore, the conclusion we reached in our Opinion No. 75, dated April 16, 1953, to Riley, is applicable. In that opinion,

Honorable John D. Ashcroft

copy enclosed, this office held that a repeal of Section 146.056 would make it obvious that the removal of the duties would necessarily eliminate the additional compensation provided for such duties, and, as a result, the treasurer would not be entitled to the compensation provided for performance.

It is our view that the 1953 opinion is applicable in these premises and that the treasurers would be paid for 1974 because services have already been performed for that year but not thereafter.

CONCLUSION

It is the opinion of this office that Section 146.056, RSMo, which requires certain duties of county treasurers with respect to the state intangible tax has been repealed by implication and that such treasurers are not entitled to the additional compensation provided by Section 54.275, RSMo for such services no longer rendered by them.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 75
4/16/53, Riley