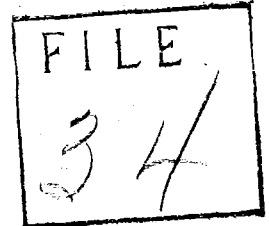


COLLECTORS COMMISSIONS: Township collectors should include income tax collections with general taxes collected in calculating their commissions for collecting taxes.

December 5, 1941

12-6
Mr. Arthur U. Goodman, Jr.
Prosecuting Attorney
Kennett, Missouri



Dear Sir:

We are in receipt of your request for an official opinion under date of November 5, 1941, as follows:

"Dunklin County operates under the township organization law, and the township collectors collect income tax as well as the general real and personal property tax. Under Section 14014, R. S. Mo. 1939, the collector is allowed a commission of 2½% on the first \$40,000.00 collected, etc.

"Should the income tax collected by the township collector be included in computing the \$40,000.00 on which the collector is allowed 2½% on the first \$40,000.00 of general taxes collected?"

The fees of township collectors for collecting general taxes in counties under township organization are fixed by Section 14014, R. S. Mo. 1939. The portion of this section which applies to the question here is as follows:

"* * * He shall receive a commission of two and one-half per cent on the first forty thousand dollars collected; one per cent on the next forty thousand dollars collected; and three fourths per cent on the remainder of all moneys collected by him. * * * "

The question here involved, as stated above, is whether or not the amount of income tax collected by the township collector should be included in computing the \$40,000.00 upon which the collector is allowed the 2½% commission on the first \$40,000.00 of general taxes collected. The

Income Tax Act, in so far as it applies to compensation of collectors for collecting the tax is as follows (Sec. 11364, R. S. No. 1939):

"Compensation of assessors and collectors.
--Assessors and collectors shall be compensated in like manner and in like amounts as for the assessments of other taxes: Provided, that in counties in which the assessors and collectors are paid a fixed salary, that in addition to the salary paid, they shall be permitted to charge for work performed in the assessing and collecting of the income tax, as provided by this article, the same fees as are charged by assessors and collectors whose salary is not fixed by law, and which fees so charged by said assessors and collectors for services rendered in assessing and collecting income tax shall be paid by the state."

From your request we assume that your collector is not one on a salary basis which comes within the proviso clause of the foregoing section. It seems that in this section the lawmakers contemplated that in cases where the collector is on a salary basis, then the collector is entitled to retain as salary the additional charge he is permitted to make for work performed in assessing and collecting income taxes. If the collector is not required to take into consideration the amount of income tax collected, in computing his commission, then he would not be compensated for collecting said taxes in like manner and in like amounts, as provided by Section 11364.

The township collector in question should collect income taxes in his township the same as other personal or real estate taxes and he is legally entitled to compensation for collecting said taxes in like manner and in like amounts as for other taxes collected by him. It would necessarily follow that the township collector is allowed a commission of $2\frac{1}{2}\%$ on all taxes collected by him, including income taxes, in computing his commissions.

Mr. Arthur U. Goodman, Jr. -3-

December 5, 1941

CONCLUSION

From the foregoing, it is the opinion of this department that the township collector in a county which operates under township organization, is entitled to $2\frac{1}{2}\%$ commission on the first \$40,000.00 of all taxes collected by him, including income taxes.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

VANE C. TURLO
(Acting) Attorney General

TWB:NS