

COUNTY COLLECTOR: Rate of per cent for collection of taxes.

5-17
May 4, 1937.



Mr. J. W. Guerrant,
County Collector,
Callaway County,
Fulton, Missouri.

Dear Mr. Guerrant:

We wish to acknowledge your request for an opinion wherein you state as follows:

"We should like to have you render an opinion on the following question.

What bracket would a collector be under -- 10 or 11?

"We are enclosing you a form as audited December 1936, which shows the amount of beer and utility license collected. Through an error, the county clerk collected the beer and liquor license amount and this was credited to the capital school fund. Later, by order of the county court it was transferred to county revenue fund."

Your enclosure reads as follows:

"To land tax book, 1935.....	\$169,590.08
To additions to land tax book, 1935....	81.48
To personal tax book, 1935.....	22,877.35
To additions to personal tax book, 1935	10.63
To interest on current tax books since Jan, 1, 1936	89.79
To income tax book, 1935	1,685.28
To additions to income tax book, 1935..	1.96

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To interest collected on income tax book, 1935, since June 206
To M. and M. tax book, 1935	4,539.06
To additions to M. and M. tax book, 1935	
To collections on licenses from March 1, 1935 to February 29, 1936	220.00
Total	<u>\$199,096.69</u>

Utility locally assessed	\$ 636.86
Beer and liquor licenses	755.00"

Section 9935, Laws of Missouri, 1933, page 454, provides for the rate of per cent which county collectors may charge for the collection of taxes, in part, thus:

"The collector, except in counties where the collector is by law paid a salary in lieu of fees and other compensation, shall receive as full compensation for his services in collecting the revenue, except back taxes, the following commissions and no more:

"I. In each county in this state wherein the whole state, county, bridge, road, school (school) and all other local taxes, including merchants' and dramshop licenses, assessed and levied for any one year amount to _____ dollars or less, a commission of _____ per cent on the amount collected.

* * * * *

"X. In all counties wherein the total amount of all such taxes and licenses levied for any one year exceeds one hundred and fifty thousand dollars and is less than two hundred thousand dollars, a commission of two and one-fourth per cent on the first one hundred and fifty thousand dollars collected and one-fourth of one per cent on whatever amount may be collected over one hundred and fifty thousand dollars.

"XI. In all counties wherein the total amount of all such taxes and licenses levied for any one year exceeds two hundred thousand dollars and is less than two hundred and fifty thousand dollars, a commission of one and three-fourths per cent on the first two hundred thousand dollars collected and two per cent on whatever amount may be collected over two hundred thousand dollars."

The purpose of the above sections is to determine the amount of compensation a county collector is to receive for his services in collecting the current revenue.

With respect to the item marked "utility locally assessed," we direct your attention to an opinion rendered by this department under date of August 21, 1935, to Mr. Lewis A. Duval, Prosecuting Attorney, a copy of which is enclosed, wherein we held, among other things, that franchise taxes and railroad taxes assessed under the provisions of Article XIII, Chapter 59, R. S. Mo. 1929, should not be included in the amount of taxes assessed and levied for the purpose of determining the collector's commission under the provisions of Section 9935, Laws of Missouri, 1933, page 454.

And with respect to the same item, we also direct your attention to an opinion rendered by this department under date of May 14, 1936, to Mr. R. W. Starling, Prosecuting Attorney, a copy of which is enclosed, wherein we held that taxes locally assessed against electric power and light companies are to be included in the total amount of taxes locally assessed and levied, for the purpose of determining the collector's commission under the provisions of Section 9935, Laws of Missouri, 1933, page 454.

Section 10066, Laws of Missouri, 1933, pages 422 and 423, reads in part:

" * * * and all property, real and personal, including the franchises owned by telegraph, telephone, electric power and light companies, electric transmission lines, oil pipe lines, gas pipe lines, gasoline pipe lines, and express companies, shall be subject to taxation for state, county, municipal and other local purposes to the same extent as the property of

private persons. And taxes levied thereon shall be levied and collected in the manner as is now or may hereafter be provided by law for the taxation of railroad property in this state, * * * *."

The Starling opinion dealt primarily with the collector's commission for taxes locally assessed and levied against electric power and light companies, but, in our opinion, taxes locally assessed and levied against telegraph, telephone, electric transmission lines, oil pipe lines, gas pipe lines, gasoline pipe lines, and express companies should also be included in determining the collector's commission under the provisions of Section 9935, Laws of Missouri, 1933, page 454.

We turn now to the item marked "beer and liquor licenses." In an opinion rendered by this department to Mr. Peter H. Huck, Prosecuting Attorney, under date of August 24, 1934, a copy of which is enclosed, we held that in the absence of any specific direction on the part of the Legislature, the collection of the county liquor license fees is properly the duty of the county collector.

The above conclusion was based on Section 24, Laws of Missouri, 1933-1934, Extra Session, page 87, which has since been repealed, as follows:

"The County Court in each county is hereby authorized to make a charge for licenses issued to retail dealers in all intoxicating liquor, the charge in each instance to be determined by the County Court, by order of record, but said charge shall in no event exceed the amount provided for in Section 22 of this act, for state purposes."

Under the present law, Section 25, Laws of Missouri, 1935, page 276, there is a specific direction on the part of the Legislature that every holder of a permit or license pay the permit or license fee into the county treasury of the county wherein the premises described and covered by such permit or license are located. There being no duty on the county collector to collect the permit license fees, we are of the opinion that the county collector may not include same in

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the amount of taxes assessed and levied for the purpose of determining the collector's commission under the provisions of Section 9935, Laws of Missouri, 1933, page 454.

You can not under the statute include the "beer and liquor licenses" item, which you state amounts to \$755.00, so that adding the "utility locally assessed" item in the amount of \$636.86, which, as we pointed out, can not include franchise taxes and railroad taxes, together with the other items which you show to be in the amount of \$199,095.69, makes the total sum of \$199,732.55.

Your taxes and licenses levied for the one year having exceeded \$150,000.00 and being less than \$200,000.00, we are of the opinion that you come within subsection or bracket 10 as to the rate of per cent which you as county collector may charge for the collection of county taxes.

Respectfully submitted,

WM. ORR SAWYERS,
Assistant Attorney General.

APPROVED:

J. E. TAYLOR,
(Acting) Attorney General.

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