

TOWNSHIP ORGANIZATION:  
EX OFFICIO COLLECTORS:

The ex officio collector in a county under township organization is entitled to only two percent for collecting delinquent taxes returned by the township collectors.



April 25, 1953

Honorable Joe H. Miller  
Prosecuting Attorney  
Carroll County  
Carrollton, Missouri

Dear Mr. Miller:

We have given careful consideration to your request for an opinion, which request is as follows:

"This is in reply to your letter of March 30th, 1953.

"Section 54.320, RSMo 1949, relating to County Treasurer and Ex Officio collector, in Counties of the 3rd class operating under Township organization, provides that for collecting and paying over taxes that he shall be allowed a commission of 3 per-cent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and 2 per-cent on all delinquent taxes, which shall be taxed as costs against such, and collected as other taxes, and etc.

"The question that my Treasurer and Ex Officio collector asks, is he entitled to 3 per-cent for paying over the delinquent taxes as well as the corporation taxes, back taxes, licenses, merchants' tax, and tax on Railroads?"

It is provided in Section 54.280, RSMo 1949, that the county treasurer of a county having adopted township organization shall be ex officio collector with power to collect all delinquent taxes on personal property and real estate, licenses, merchants' taxes, taxes on railroads and other corporations, and his compensation for such services is fixed by Section 54.320, RSMo 1949, as amended by the 66th General Assembly

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Laws of Missouri, 1951, page 378.

Section 54.320, as amended, is as follows:

"The county treasurer in counties of the third and fourth classes adopting township organization shall be allowed a salary of not less than one hundred dollars per month by the county court to be paid as at present provided by law; the ex officio collector for collecting and paying over the same shall be allowed a commission of three per cent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes; he shall receive nothing for paying over money to his successor in office."

The terms "back taxes" and "delinquent taxes" used in this section seem to have the same meaning. The Supreme Court of Missouri, however, defined these terms and construed the section in *State vs. St. Louis-San Francisco Ry. Co.*, 66 S.W. (2d) 149. In the course of that opinion, on page 150, the Court said:

"We think the words 'back taxes' as used in the amended section have reference to delinquent corporation, merchant, license, and railroad taxes and that it was intended by the amendment to allow the ex officio county collectors the same commission for collecting said delinquent taxes as allowed for collecting current corporation, merchant, license, and railroad taxes. In effect, the amendment provided a commission of 2 per cent for collecting either current or delinquent corporation, merchant, license, and railroad taxes. If so, the words 'delinquent taxes' as used have reference to the taxes returned delinquent by the township collectors. \* \* \*."

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The Legislature in 1949 raised the ex officio collector's commission for collecting corporation taxes, back taxes, licenses, merchants' tax and tax on railroads from two percent to three percent. Laws of Missouri, 1949, p. 627. His commission for collecting delinquent taxes, however, was left at two percent, and that is the law today.

#### CONCLUSION

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It is the opinion of this office that ex officio collectors in counties of the third and fourth classes under township organization are entitled to a commission of only two percent for collecting and paying over delinquent taxes returned by the township collectors.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. B. A. Taylor.

Yours very truly

JOHN M. DALTON  
ATTORNEY GENERAL

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