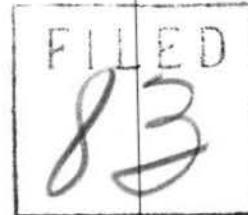


INSURANCE: County Collector pays insurance
tax under Section 5978a. Laws of
COUNTY COLLECTOR: Missouri, 1939, page 461, to State
Treasurer, general county revenue
and school fund in same proportion
as taxes are now distributed for
real estate.

May 16, 1940 9.7

Hon. Forrest Smith
State Auditor
Jefferson City, Missouri

Attention - Mr. W. A. Holloway
Chief Clerk



Dear Sir:

We are in receipt of your request for an opinion
dated April 23, 1940, which reads as follows:

"The 60th General Assembly passed Sections
5978a and 5978c relative to the assess-
ment, collection and distribution of tax
on certain stock insurance companies; and
we have been requested to obtain an opinion
from your office setting out and clarifying
the law for the county collector concerning
the distribution of this money as to state,
county and school.

"As this money is now in the hands of the
collectors subject to distribution, it would
be appreciated if we could obtain this opini-
on at your earliest convenience."

Section 5978a. Laws of Missouri, 1939, page 461,
reads as follows:

"Every stock insurance company organized
under the provisions of Article 6, Chapter

37 of the Revised Statutes of Missouri, 1929, shall annually pay a tax upon the direct premiums received during the preceding year, whether in cash or notes, in this state and on account of business done in this state at a rate of 2 per cent per annum in lieu of all other taxes except taxes on real estate, taxes on incomes and on franchises and license taxes; Provided, that said insurance companies shall be credited with canceled or returned premiums, actually paid during the year in this state."

Section 5978c, Laws of Missouri, 1939, page 462, partially reads as follows:

" * * * On or before the first day of April in each year the county assessor shall notify each company so assessed by him of the amount of taxes due from it on the assessment of its premiums, and such taxes shall be paid by such company to the county collector of the county in which such assessment was made on or before the first day of May next ensuing. The moneys paid as a tax upon such premiums to the county collector shall be distributed and paid by such collector to the state treasurer and to the county treasurer in the same proportions as taxes collected in the same year on real estate are distributed and paid, and the amounts distributed to such county treasurer, as hereinabove provided, shall be placed to the credit of the general revenue fund of the county and to the credit of the county school fund in the same proportions as the amount of taxes received by the county collector in such year

from real estate are credited to said county revenue fund and to the county school fund. Whenever the word 'county' occurs herein it shall be construed to include the city of St. Louis; and wherever the words 'county assessor' occur they shall be construed to include the assessor of the city of St. Louis; and wherever the words 'county collector' occur herein they shall be construed to include the collector of the city of St. Louis."

It will be noticed under the above partial section that the county collector is commanded to distribute the tax of 2% as set out under Section 5978a, supra. It specifically states that he shall first distribute the share to the state treasurer and next distribute the share to the county treasurer, which share must be divided between the county revenue fund and the school fund. The share directed to be paid to the state treasurer will be the same proportion to all counties and includes the levy made by the state legislature for the state revenue and also all state taxes for the payment of bonded indebtedness or renewal bonds issued in lieu thereof. The state levy is made by reason of Section 9866, Laws of Missouri, 1939, page 855, which reads as follows:

"There shall be annually levied, assessed and collected on the assessed value of all real estate and personal property, subject by law to taxation in this state, five cents on each one hundred dollars valuation for state revenue."

In all counties the same proportionment as to the state for the one hundred dollar valuation will be the same; but as to the proportionment paid by the collector the county revenue fund and school fund will differ in most

of the counties for the reason that the limitation of assessment for each one hundred dollar valuation is different in certain counties as set out in section 9873 R. S. Missouri, 1929. Under section 9873, supra, the limitation of the levy for county purposes depends upon the assessed valuation of the property in the county. This limitation does not apply as to taxes for the payment of valid bonded indebtedness or renewal bonds issued in lieu thereof.

Webster's Dictionary defines "proportion" as "the relation of one portion to another or to the whole, or of one thing to another as respects magnitude, quantity or degree."

Section 9867 R. S. Missouri, 1929, reads as follows:

"The following named taxes shall hereafter be assessed, levied and collected in the several counties in this state, and only in the manner, and not to exceed the rates prescribed by the Constitution and laws of this state, viz.: The state tax and the tax necessary to pay the funded or bonded debt of the state, the funded or bonded debt of the county, the tax for current county expenditures, the taxes certified as necessary by cities, incorporated towns and villages, and for schools."

This section applies to the assessment, levy and collecting in the several counties of this state.

Section 9873 R. S. Missouri, 1929, which follows Section 11, Article 10, of the Constitution of the State of Missouri sets out the limitations of taxes to be levied for county purposes and is too lengthy to set out in this opinion. This section sets out the limitations of different counties in proportion to the valuation of the property in the county. The limitations set out in Section 9873 R. S. Missouri, 1929,

May 16, 1940

has no relationship to the special additional levy that may be ordered under Section 9868 R. S. Missouri, 1929, which applies to the method of making a special additional levy. It was so held in the case of State ex rel v. Railway, 247 S. W. 182.

On a one thousand dollar assessment on real estate, if the state levy was for five cents on the one hundred dollar valuation the collector should pay into the state fifty cents for the state levy. If the county levy was fifty cents a hundred on real estate assessed at one thousand dollars, the revenue of the county would be entitled to the sum of five dollars. If the school levy was fifty cents on a one hundred dollar valuation on real estate a piece of real estate valued at \$1,000.00 would be liable for taxes in the amount of five dollars, which should be paid into the county school fund. In other words, the state would be entitled to fifty cents, the county five dollars, and the school fund five dollars. If, under section 5978a, supra, the insurance company should pay into the county collector twenty-one dollars, he should distribute it to the state treasurer and to the county treasurer for the general revenue fund of the county, and to the credit of the county school fund in the same proportion as the amount of taxes received by the county collector in such year from real estate or credited to said county revenue fund and to the county school fund. In other words, the state treasurer would be entitled to one dollar and ten dollars should be credited to the general revenue fund of the county and ten dollars should be credited to the county school fund, on property of the value of \$1,000.00, as above set out and under the levy as above set out.

Taking into consideration the definition of "proportion," as above set out, one dollar distributed to the state treasurer bears the same proportion to the whole tax collected as one dollar bears to the twenty-one dollars paid into the county collector by the insurance companies.

Respectfully submitted,

APPROVED:

W. J. BURKE
Assistant Attorney General

COVELL R. HEWITT
(Acting) Attorney General

WJB:RW