

SALARIES AND FEES: In counties of less than 100,000 the  
COUNTY ASSESSOR: assessor is entitled to fees of  
\$5,000.00, exclusive of deputy hire.

---

February 5, 1943

Honorable H. Tiffin Teters  
Prosecuting Attorney  
Jasper County  
Carthage, Missouri



Dear Sir:

We are in receipt of your request for an opinion,  
under date of February 2, 1943, which reads as follows:

"We desire a ruling from your office in regard to the amount of compensation paid to the Assessor in Jasper County, Missouri. I have before me your opinion of October 20, 1942, addressed to Hon. Forrest Smith, State Auditor, to the attention of W. A. Holloway, Chief Clerk, in regard to this matter. Jasper County now has a population of over 78,000 and we desire to know 'what is the maximum amount of fees or salary which shall be paid to the assessor of Jasper County, Missouri.'

"The Assessor has presented a statement to the County Court setting forth that he has taken 38,087 assessment lists at 25¢ each, or \$9521.75, he has entered 23,988 personal lists at 3¢ each, or \$719.64, he has entered 27,496 tracts of real estate at 3¢ each, or \$824.88, he has taken and entered 2194 crop reports for the State Board

February 5, 1943

of Agriculture at 4¢ each, or \$87.76, making a grand total of \$11,154.03. \$5577.01 is being asked to be paid by the County and Mr. Trusty, our Assessor has presented a bill to the State for \$5577.02.

"In the State Auditor's digest of laws pertaining to the County Assessor prepared and compiled by Forrest Smith on pages 142 and 143 under compensation of the Assessors, the maximum is stated to be controlled by Sec. 13450, R. S. Mo. 1939. This is also set out on Page 5 of your opinion dated October 20, 1942, aforesaid.

"Sec. 10,946, R. S. Mo. 1939 provides that 'the Assessor may appoint as many deputies as he may see necessary to be paid for out of fees allowed to such Assessor for whose official acts he shall be responsible - - - - -'

"The Assessor states that the cost of his Clerk and Deputy hire will run well in excess of \$5000 and contends that he is entitled to the full amount of fees and that Sec. 13450 R. S. Mo. 1939 does not apply in this case, as said section contemplates an office where fees are collected and retained. The Assessor collects no money and retains no fees whatsoever but such fees are paid direct to the Assessor by the County and State.

Honorable H. Tiffin Teters (3) February 5, 1943

"If in your opinion \$5000.00 is the maximum salary or fees that may be retained by the Assessor are the costs of clerk and deputy hire first deducted and the balance if any, paid to the assessor in excess of \$5000.00?"

In the above request you refer to an opinion rendered by this office to the Honorable Forrest Smith, State Auditor, another copy of which we are enclosing, but in that request the questions were:

"2. In arriving at the net salary of the Assessor, is he permitted to deduct his automobile expense?

"3. Is the assessor authorized to make a charge for 'compiling land blotters' and for correcting land blotters?"

In answer to your request, we are setting out Section 13450 R. S. Missouri, 1939, which reads as follows:

"The fees of no executive or ministerial officer of any county, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of five thousand dollars for any one year. The foregoing clause shall not apply to any county or city not within a county in this state now containing or which may hereafter contain one hundred thousand inhabitants or more. After the

Honorable H. Tiffin Teters (4) February 5, 1943

first day of January, 1891, every such officer shall make return quarterly to the county court of all fees by him received, and of the salaries by him actually paid to his deputies or assistants, stating the same in detail and verifying the same by his affidavit; and for any statement or omission in such return contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury."

The above section is unambiguous and the language is very plain, in which it states:

" \* \* \* exclusive of the salaries actually paid to his necessary deputies, \* \* \* \*."

You also state in your request that the fees of the assessor will amount to \$5,577.02, which includes the pay of his deputies.

The purpose of the above section 13450, supra, is in line with Section 13, Article IX of the Constitution of Missouri, which prohibits the payment of a salary in excess of \$10,000.00 to any public officer, and under Section 13450, supra, if the assessor has employed deputy assessors his salary will not be more than \$5,000.00, as set out in the limitations by the legislature.

Section 10946 R. S. Missouri, 1939, provides for the appointment of deputy assessors, and in a careful search of the statute we fail to find any limitation upon the appointment of deputy assessors.

Honorable H. Tiffin Teters (5) February 5, 1943

In your request you state, " \* \* \* that Sec. 13450 R. S. Mo. 1939 does not apply in this case, as said section contemplates an office where fees are collected and retained. The Assessor collects no money and retains no fees whatsoever but such fees are paid direct to the Assessor by the County and State." In reading Section 13450, supra, we do not find that it mentions anything about collecting or retaining fees, but specifically states:

"The fees of no executive or ministerial officer of any county, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of five thousand dollars for any one year. \* \*"

The language in the above section is unambiguous and does not refer to the retaining of any fees.

CONCLUSION

It is, therefore, the opinion of this department, that the county assessor of Jasper County may retain or be paid fees earned by him as assessor, under the facts set out in your request, in the amount of Five Thousand (\$5,000.00) Dollars, exclusive of the salaries actually paid to his necessary deputies.

Respectfully submitted

W. J. BURKE  
Assistant Attorney General

APPROVED:

---

ROY MCKITTRICK  
Attorney General of Missouri

WJB:RW