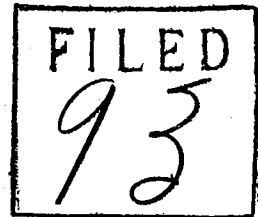


TAXATION AND REVENUE: Maximum levies permitted for county and township revenue and township road and bridge purposes, under the Constitution of 1945.

April 30, 1945



Honorable Henry C. Walker
Prosecuting Attorney
Kennett, Missouri

Dear Sir:

Reference is made to your letter dated April 25, 1945, requesting an official opinion of this office, and reading as follows:

"Dunklin County operates under Township Organization. The Township Boards of some of the Townships in this county believe that under the New Constitution the rate at which they may levy taxes has been increased. This has been submitted to the County Court, and they have instructed me to write and request your opinion in this matter.

"The assessed valuation of the property in Dunklin County is \$14,000,000.00.

"Does the New Constitution raise the rate at which the County and the Townships may levy taxes for County Revenue, Township Revenue and Road and Bridge purposes?

"What is the maximum legal rate at which the County and Township may levy taxes in this county for County Revenue, Township Revenue and Road and Bridge purposes?"

With respect to the first question proposed, we believe the following to be in point:

The maximum levy for county and township revenue is presently fixed by a statute found in Laws of 1943, at page 1008, reading, in part, as follows:

"For county purposes the annual tax on property * * * shall not in any county in this state exceed the rates herein specified: In counties having thirty million dollars or less said rate shall not exceed fifty cents on the hundred dollars valuation; * * *."

The maximum levy for township road and bridge purposes is presently fixed by Section 8821, R. S. Mo. 1939, reading, in part, as follows:

"The township board of directors of any township may, annually, in their discretion, * * * levy an annual tax * * * in any amount not exceeding twenty-five cents on each one hundred dollars valuation on all property subject to taxation in such township, * * *."

Article X, Section 11, of the Constitution of 1945 provides, in part, as follows:

"Taxes may be levied by counties and other political subdivisions on all property subject to their taxing power, * * *."

"Any tax imposed upon such property by municipalities, counties or school districts, for their respective purposes, shall not exceed the following annual rates:

* * * * *

"For counties--thirty-five cents on the hundred dollars assessed valuation in counties having three hundred million dollars, or

more, assessed valuation, and fifty cents on the hundred dollars assessed valuation in all other counties; * * *."

Article X, Section 12, of the Constitution of 1945 provides, in part, as follows:

" * * * the township board of directors in the counties under township organization, * * * may levy an additional tax, not exceeding thirty-five cents on each hundred dollars assessed valuation. * * *"

Upon comparison of the statutes and constitutional provisions cited, it becomes apparent that the maximum rates for county and township revenue purposes remain unchanged; and that an increase from twenty-five cents to thirty-five cents per one hundred dollars valuation has been made with respect to the township road and bridge tax.

With respect to the second question you propose, we think the following to be in point:

In view of the fact that each of the limitations on the maximum levies are now found in statutes, it becomes of importance to examine Section 2 of the Schedule appended to the Constitution of 1945, which reads, in part, as follows:

" * * * All laws inconsistent with this Constitution, unless sooner repealed or amended to conform with this Constitution, shall remain in full force and effect until July 1, 1946. "

This section has the effect of keeping the statutes imposing the limitations upon levies for the various purposes in full force and effect until July 1, 1946, unless such statutes be sooner repealed or amended by the General Assembly.

CONCLUSION

In the premises, we are of the opinion that no change will be made by the Constitution of 1945 with respect to the maximum levies permitted for county and township revenue purposes in your county, and that the levy for road and bridge purposes will be increased from a maximum of twenty-five cents per one hundred dollars assessed valuation to thirty-five cents per one hundred dollars assessed valuation, under the new Constitution.

We are of the further opinion that in preparing the levies for computing taxes to be collected in 1945, the county court and township boards of directors must fix such levies within the limitations imposed by the statute found in Laws of 1943, at page 1008, and Section 8821, R. S. Mo. 1939, for the reason that such statutes are, under the express provisions of Section 2 of the Schedule appended to the Constitution of 1945, in full force and effect until July 1, 1946, unless sooner repealed or amended by the General Assembly.

Respectfully submitted

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:IR