

TOWNSHIP ORGANIZATION:) Re levying of poll taxes in counties
TAXATION:) under township organization.
POLL TAXES:)

December 16, 1936.



Honorable Mark W. Wilson
Prosecuting Attorney
Henry County
Clinton, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of recent date in which you request the opinion of this Department. Your letter is as follows:

"Representatives of the citizens of one of our townships have come to me and ask if they will have to pay poll tax this year under the following circumstances:

"The township board did not appoint a road-overseer as provided by law and no notices were given to work out the poll tax.

"The poll tax is paid at the time of the other taxes and these people want to know if they can pay the other tax without paying the poll tax, since there was no overseer and no warning notices given.

"Now the township board comes to me and wants to know who shall sign the receipts for the poll tax paid if they have to pay it or if they voluntarily do so.

"These questions are very material to this community at the present time, so I will appreciate an opinion as soon as possible."

The facts as set forth in your letter of inquiry, relative to the assessment of poll tax, are somewhat meager, but from your statement we assume that the township board (Henry County being under township organization) did not appoint a road overseer in the month of April as provided by Section 8150, R. S. Mo. 1929. Neither did a road overseer in the township in question qualify and give bond under the provisions of Sections 8151 and 8152, R. S. Mo. 1929. In other words, there has been a non-compliance in said township relative to the appointment of road overseers.

Under township organization Section 8158, R. S. Mo. 1929, provides that,

"The township board shall, at the regular April meeting, levy, for road purposes, a poll tax in the township in the same manner and under the same restrictions as provided for such levy by county courts in counties not under township organization. * * * *"

Under counties not under township organization the manner of levying and collection of a poll tax are found in Sections 7880, 7881, 7882, 7883, 7884, 7885, 7886, 7887 and 7888, R. S. Mo. 1929, and the above sections must be looked to for the procedure in the levying and collection of poll taxes in the counties under township organization as required by Section 8158, R. S. Mo. 1929, in so far as the same is applicable and not differently provided for in the township organization law relative to same. In the absence of the appointment of a road overseer by the township board, evidently there has been an absolute non-compliance with the statutes relative to the duties of the road overseer with respect to giving warning notices to those eligible to pay poll tax, and no warning notices whatever have been given as provided by Section 8159, R. S. Mo. 1929.

We are not unmindful of what is said in Section 7880, R. S. Mo. 1929, that "no poll tax payer shall be exempt from the payment of this poll tax on account of any

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mistake or defect in the warning notice to work the roads."

It will be noted that in counties under county organization the county courts levy the tax and the county clerks make up the lists, while under township organization these duties devolve upon the township board and the township clerk, respectively.

From the facts as stated in your letter, and on those facts alone, we must conclude that there has been such a material non-compliance with the assessment in the collection of poll taxes which would invalidate the levy of poll taxes in that township. Of course, upon a suit brought for the collection of the poll taxes, it may be shown that there has been a sufficient compliance with the statutes to make a valid levy, but upon your statement it would seem that such is not the case. We see no reason why the taxpayers of that township may not pay their general property tax without reference to the payment of their poll taxes.

We hope that this sufficiently answers the questions requested in your letter.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

CRH:EG