

COUNTY CLERK--Not required or authorized to extend city or town taxes in tax books for state and county purposes.

March 9, 1937

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Hon. Walter E. Miller
Clerk of the County Court
St. Louis County
Clayton, Missouri

Dear Mr. Miller:

We are in receipt of your communication requesting an opinion of this office on the following matter:

"Representatives of villages and cities of the fourth class in St. Louis County have requested me to extend their city tax rates upon the general tax books for state and county purposes.

It is my opinion that the statutes strictly provide in what manner this levy should be made, i. e. the County Clerk shall prepare an abstract for the villages and cities of the fourth class and that said cities shall levy and collect their own taxes.

There seems to be a question in this matter, and therefore, I would like to have you give me your legal opinion as to the proper procedure."

I.

County Clerk without authority to extend taxes due cities of the fourth class in state and county tax books.

You are entirely correct in your statement that the statutes provide the specific manner in which the tax books are to be made out for the collection of taxes due cities of the fourth class. First in connection with the assessment

of the property, in the event a city assessor has been elected, that city assessor is required by law to sit with the county assessor and assess all property both real and personal in cities of the fourth class. Such assessment is later passed upon by the Board of Equalization and any changes or corrections thereof are to be made in the city assessor's book by a correction in red ink. It is only in the event that no city assessor has been elected that you are authorized to prepare an abstract and deliver the same to the mayor on or before the first day of July of each year of all the taxable property in the city. In the event there is a city assessor you are not authorized or required to supply the abstract. Section 6994 R. S. Missouri 1929.

After the making of the assessment by the city assessor or after the mayor has obtained the abstract from your office, as the case may be, it then becomes the duty of the city clerk to proceed to make up the city tax book. Section 6999 R. S. Missouri 1929, provides as follows:

"When the board of aldermen shall have fixed the rate of taxation for any given year, the city clerk shall make out appropriate and accurate tax books, and shall therein set out in suitable columns, opposite the name of each person and the item of taxable property as returned by the assessor and board of equalization, the amount of taxes, whether general or special, due thereon, and shall charge the collector with the full amount of taxes levied and to be collected; the clerk shall also charge the city collector with all licenses and other duties of all kinds to be collected."

The tax book thus prepared and in the hands of the city collector then becomes his warrant for the collection of the taxes and is of course the best evidence of the taxpayers' obligation to pay the taxes. The provisions of Section 7000 of course should not be overlooked. This section requires the City Collector to report monthly his collection of taxes and all other sums received.

CONCLUSION

These specific statutory provisions leave no doubt as to the method which is to be pursued in preparing the tax book for the collection of delinquent taxes due cities of the fourth class. The duty of the preparation of the tax book rests upon the city clerk who, after extending the amount of taxes in the book, delivers the same to the city collector who is charged therewith, and proceeds with the collection of such taxes. It is the opinion of this office that you are not required and are without authority to extend city taxes due cities of the fourth class upon the general tax book which you prepare for taxes due for state and county purposes.

II.

Current taxes due towns and villages may not be extended in state and county tax book.

We direct attention to Article IX, Chapter 38, R. S. Missouri 1929, which deals particularly with towns and villages. Under the provisions of this article and particularly Section 7108 the chairman of the Board of Trustees is authorized to procure and the county clerk is directed to deliver to him a certified abstract of the assessment book corrected by the Board of Equalization of all property in the town which has been assessed for taxes for state and county purposes, together with the assessed value thereof. Thereupon the Board of Trustees is required to levy the taxes for the town based upon the assessment therein contained. Thus far the procedure is essentially similar under the statute to cities of the fourth class. However, in this article we fail to find any specific section directing any officer of the town to prepare the tax book. However, Section 7109 provides in part as follows:

"All assessments on real and personal property within the limits of such town, which may be certified and transmitted to the board of trustees from time to time, as provided in the preceding section, shall be taken and

considered as the lawful and proper assessment on which to levy and collect the municipal taxes of the town, and the payment of all taxes authorized by this article shall be enforced by the collector in the same manner and under the same rules and regulations as may be provided by law, etc.

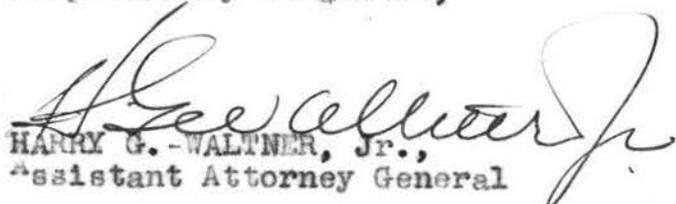
Thus it plainly appears that the abstract which has been certified becomes and is the assessment for town taxes. A following section, 7111, specifically authorizes the Board to compensate the county clerk for certifying and transmitting "an abstract of the property within such town made taxable by law for state purposes". No further or other provision for compensation to the county clerk is provided. No compensation is provided to the Clerk for the extension of any taxes, etc. While this provision of the law is somewhat indefinite, to-wit, as to who makes up the tax book, we believe that under the general scheme as evidenced from the other laws enacted, that it is not contemplated that the town taxes be extended on the book for state and county purposes and collected by the county collector, as such provision would make unnecessary the appointment of a city collector and would eliminate from that office a great part of the duties which it naturally encompasses. We call attention to Section 7100 which authorizes the Board of Trustees to appoint "an assessor, collector****and such other officers, servants and agents as may be necessary." Thus, the Board of Trustees have ample authority to appoint a city collector whose primary duty would be the collection of current city taxes on real estate and personal property. Also, under this Section the Board of Trustees have the power to appoint such other officers and employees as may be necessary. It is quite certain that under this provision they would have authority to appoint either officers or employees to prepare the tax book, extending the taxes on the certified copy of the abstract received from the county clerk or preparing a new and separate tax book showing the

amount of taxes levied. An examination of this Article shows that there is no provision for the certification of the levy of taxes to the county clerk or to the county collector. Without such certification those parties would be unable to extend upon the county tax books the taxes levied and assessed against the property for town purposes. It should also be noted that in making provision for the fees and compensation of the county clerk, no portion of the expense of preparing the tax book for state and county purposes is charged to any town or village or municipality, but that expense is payable out of the state and county treasuries. Section 10007.

CONCLUSION

It is therefore the opinion of this office that you as county clerk of the county of St. Louis are without authority to extend taxes due towns and villages upon the current tax book containing taxes due for state and county purposes, but that taxes due such towns and villages should be incorporated into a tax book prepared by the town or village officials or employees from the certified copy of the abstract of the assessment. The policy of the law, as exemplified by the statutory enactments of the legislature relative to cities of the fourth class show this to be the recognized and established manner of providing for the collection of such taxes.

Respectfully submitted,


HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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