

TOWNSHIP ORGANIZATION: Annual statement required to be made by Section 8170 should cover preceding fiscal year.

February 25, 1938



Mr. Donald B. Dawson
Prosecuting Attorney
Bates County
Butler, Missouri

Dear Sir:

This department is in receipt of your letter of February 18, 1938, in which you request an opinion as follows:

"Section 8170 of Revised Statutes of Missouri, 1929, provides that the clerks of township boards in all counties under township organization shall, between March 1st and 10th of each year, publish a statement of financial condition of townships, showing receipts and disbursements for preceding year.

"Feeling many township clerks would not know of that provision in our statutes, I took the liberty of sending every township clerk in the county a copy of Section 8170. Now the question arises as to what is meant by the words 'preceding year' in the above section. I have taken the position, pending an opinion from you, that 'preceding year' means from January to January and not from March to March. In other words, the financial statements due this coming March, 1938, should cover the period from January 1, 1937, to January 1, 1938, and not from March 1, 1937, to March 1, 1938. I would sincerely appreciate knowing if mine is the correct construction of the section, and if not just how the section is to be construed."

Section 8170, R.S. Missouri, 1929, requires the township board of directors in counties under township organization to publish between March 1st and 10th of each year an itemized statement of certain receipts, disbursements, etc., of the township. This section is as follows:

"The township board of directors in all counties under township organization shall keep or cause to be kept a full, true and correct record of all moneys received and disbursed on account of roads and bridges and all other receipts and disbursements of every nature in such township, showing in detail from whom and on what account such money was received, and to whom and for what purpose disbursed, together with a complete inventory of all tools, road machinery and other property belonging to the township, together with such other information as to the condition of roads and bridges and the needs of same as may be deemed of value, and between the first and tenth day of March of each year shall cause to be published an itemized statement of such receipts and expenditures, inventory of tools, machinery and other property in some newspaper published in such township, and if there be no newspaper published in the township, then such publication may be made in any newspaper of general circulation within such township published in the county; such statement shall be made by the township clerk under the direction of the township board and shall be sworn to by such clerk, and it shall be the duty of the township clerk on or before the twentieth day of March of each year to file a copy of such detailed statement with the county clerk of such county, and the county clerk shall lay the same before the county court at its next regular meeting."

The forms for this publication are to be furnished by the county clerk and a certified copy of said statement published must be filed in the office of the county clerk on or before March 20, of each year. (Section 8171, R.S. Missouri, 1929.)

The question here is: What period of time is to be covered by said statement? As we read this section, we can find no reference by the term "preceding year" to the time to be covered as stated in your request. The statute is silent as to time. It merely provides when said statement is to be published and filed and what it shall contain.

While this section does not fix any definite period of time to be covered by said statement, it is evident it can be for no more than a period of one year. This is evident by reason of the fact that this statement must be published each year and there can be no valid reason for the statement including something which has been included in a former statement. The mere fact that the township directors are required to keep a record of certain things indicates that the things to be included in said statement are those which transpired in the past. This, of course, is so elemental it cannot be questioned.

The only ambiguity in this section is whether or not this statement which must be published between March 1st and 10th of each year is to cover the period from January 1, 1937, to December 31, 1937, or March 1, 1937, to February 28, 1938.

Section 11398, R.S. Missouri, 1929, is in part as follows:

"The fiscal year of the state shall commence on January first and terminate on the thirty-first day of December in each year, and the books, accounts and reports of the public officers shall be made to conform thereto."

This section has been construed to control the fiscal year of the counties of this state. *Wilson v. Knox County*, 132 Mo. 387; *State ex rel. v. Allison*, 155 Mo. 325. Also, to control the fiscal year of cities. *Union Trust and Savings Bank v. Sedalia*, 254 S.W. 28. We think, based upon the reason found in these cases, that it also will control the fiscal year of townships in counties under township organization. The reason for holding that this section includes counties and cities is stated in *State ex rel. v. Allison*, supra, l.c. 331, as follows:

"The argument for the relator is that the term 'public officer' therein used to designate those required to conform their books, etc., to those dates are State officers alone. This argument, drawn as it is from the language and immediate context of the statute, it being a section in the chapter creating the State Treasury Department, is not without force, but taking the section in connection with the whole subject of revenue as treated in the chapter, we think the construction the relator put upon it is too restricted. The revenue for the State and that for the county is collected by the same officer and at the same time. While the legislature was dealing with the subject of the fiscal year, if it intended to give it one limit for the State and another for the county, it would very naturally have given expression to that intention at that time. The language is not that the fiscal year for the State revenue shall commence on the first day of January, etc., but is, 'the fiscal year of the State shall commence,' etc. The natural meaning of the words would include a county as a part of the State."

In counties under township organization, the revenue of the state, county and township is collected by the same officer (a public officer) at the same time.

Section 8170, supra, enumerates the items to be contained in the statement as follows: "An itemized statement of * * * receipts and expenditures, inventory of tools, machinery and other property" of the township. The wording of the statute and the items required to be contained in the statement indicates that this statement is, in fact, a financial statement showing the condition of the finances and property of the township. The fiscal year of the township ends on December 31 each year and it is the twelve calendar months preceding this date which the statement should cover.

Mr. Donald D. Dawson

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CONCLUSION

Therefore, it is the opinion of this department that the statement required to be published by township boards of directors between March 1st and 10th should cover the preceding fiscal year of the township.

Respectfully submitted,

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APPROVED By:

J.E. TAYLOR
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