

TAXATION: TOWNSHIP
COLLECTORS' DUTIES:
DELINQUENT TAXES:

The duties of township collectors in
regard to collecting current and
delinquent personal taxes.

January 23, 1940



Honorable Henry Cain
Prosecuting Attorney
Stoddard County
Bloomfield, Missouri

Dear Sir:

This is in reply to yours of recent date wherein
you request an opinion based on the following statement:

"The Township Collectors of Stoddard
County have asked me to obtain an
opinion from your office in regard
to their official and detailed duties
in relation to the collection of
personal taxes up to the time of
March 1st of each year, when said
delinquent taxes, if any, are turned
over to the ex-officio county col-
lector.

"Furthermore, we would appreciate
having your opinion in regard to
Sections 12332, 12333 and 12334,
R. S. Mo. 1929, in relation to the
duties and procedure of township
collectors in the collection of
personal taxes, if any."

On the question of the duties of the township
collectors in regard to the collection of personal
taxes up to the time such township collector makes
his delinquent report, we find the following sections
are pertinent and set out such duties and the procedure
of such collectors in respect thereto:

Section 12320, R. S. Missouri 1929, is as fol-
lows:

"The county clerk shall cause a copy of the assessment roll of each township in their respective counties, with the taxes extended thereon, to be delivered to the collector of such township, on or before the day in each year, as fixed by law, when taxes become due."

Section 12321, R. S. Missouri 1929, is as follows:

"To each assessment roll a warrant under the hand of the county clerk and seal of the court shall be annexed, commanding such collector to collect from the several persons named in the assessment roll the several sums mentioned in the last columns of such roll, opposite their respective names; the warrant shall direct the collector, out of the moneys collected, after deducting the compensation to which he may be lawfully entitled, to pay over to the county treasurer the state and county tax collected by him. He shall pay over to the township treasurer all school moneys collected by him, and all moneys collected for township expenses, and all moneys collected for road and bridge purposes."

Section 12322, R. S. Missouri 1929, is as follows:

"In all cases the warrant shall authorize the collector, in case any person named in such assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such person, and it shall require all payments therein specified to be made by the day fixed by law for the

delivery of the tax book to the county treasurer. The county clerk shall notify the county treasurer that said books are completed, and shall furnish the treasurer with a statement setting forth the name of each collector, the amount of money to be collected and paid over for each purpose for which the tax is levied in each of the several townships."

Section 9915, R. S. Missouri 1929, provides as follows:

"The collector shall diligently endeavor and use all lawful means to collect all taxes which they are required to collect in their respective counties, and to that end they shall have the power to seize and sell the goods and chattels of the person liable for taxes, in the same manner as goods and chattels are or may be required to be seized and sold under execution issued on judgments at law, and no property whatever shall be exempt from seizure and sale for taxes due on lands or personal property: Provided, that no such seizure or sale for taxes shall be made until after the first day of October of each year, and the collector shall not receive a credit for delinquent taxes until he shall have made affidavit that he has been unable to find any personal property out of which to make the taxes in each case so returned delinquent; but no such seizure and sale of goods shall be made until the collector has made demand for the payment of the tax, either in person or by

deputy, to the party liable to pay the same, or by leaving a written or printed notice at his place of abode for that purpose, with some member of the family over fifteen years of age. Such seizure may be made at any time after the first day of October, and before said taxes become delinquent, or after they become delinquent: Provided further, that when any person owing personal tax removes from one county in this state to another, it shall be the duty of the county collector (or township collector as the case may be) of the county from which such person shall move, to send a tax bill to the sheriff of the county into which such person may be found, and on receipt of the same by said sheriff, it shall be his duty to proceed to collect said tax bill in like manner as provided by law for the collection of personal tax, for which he shall be allowed the same compensation as provided by law in the collection of executions. It shall be the duty of the sheriff in such case to make due return to the collector of the county from whence said tax bill was issued, with the money collected thereon."

The township collector's duties and powers are stated in the foregoing sections and he may exercise them thereunder until he has turned the delinquent list over and made his settlement as is provided by Section 12323, R. S. Missouri 1929, which is as follows:

"The township collector of each township shall, at the term of the county court to be held on the first Monday in March of each year, make a final settlement of his accounts with the county court for state,

county, school and township taxes and produce receipts from the proper officers for all school and township taxes collected by him, less his commission on same, at which time he shall pay over to the county treasurer and ex officio collector all moneys remaining in his hands, collected by him on state and county taxes, and shall at the same time make his return of all delinquent or unpaid taxes, as required by law, and shall make oath before said court that he has exhausted all the remedies required by law for the collection of said taxes. He shall also, on or before the twentieth day of March in each year, make a final settlement with the township board. If any township collector shall fail or refuse to make the settlement required by this section, or shall fail or refuse to pay over the state and county taxes, as provided in this section, the county court shall attach him until he shall make such settlement of his accounts or pay over the money found due from him; and it shall be the duty of said court to cause the clerk thereof to notify the state auditor and the prosecuting attorney of said county at once of the failure of such township collector to settle his accounts, or pay over the money found due from him, and the state auditor and the prosecuting attorney shall proceed against such collector in the manner provided in section 12337 of these statutes, and such collector shall be liable to the penalties in said section imposed."

It will be noted that this section also requires the township collector to make a final settlement with the township board in the township in which he is collector on or before the twentieth day of March. This indicates that the township collector's duties as to collection of taxes cease after he makes his settlement with the county court as is provided by said Section 12323.

Under said Section 9915, however, it will be noted that the collector of taxes is authorized to seize and sell property for taxes after October the first, so from this section the township collector, between October the first and March the first, the time for making his settlement, as is provided by said Section 12323, has power to seize and sell the goods and chattels of persons liable for taxes in the same manner as goods and chattels are or may be required to be seized and sold under execution issued on judgments at law.

In respect to the duties of the county treasurer, who is ex-officio collector, in counties under township organization, Section 12312, R. S. Missouri 1929, provides as follows:

"The county treasurer of counties having adopted or which may hereafter adopt township organization shall be ex officio collector, and shall have the same power to collect all delinquent personal property taxes, licenses, merchants' taxes, taxes on railroads and other corporations, the delinquent or nonresident lands or town lots, and to prosecute for and make sale thereof, the same that is now or may hereafter be vested in the county collectors under the general laws of this state. The ex officio collector shall, at the time of making his annual settlement in each year, deposit the tax books returned by the township collectors in the office of the county clerk, and within thirty days thereafter the

clerk shall make, in a book to be called the 'back tax book,' a correct list, in numerical order, of all tracts of land and town lots which have been returned delinquent by said collectors, and return said list to the ex officio collector, taking his receipt therefor."

By this section it appears that the lawmakers intended that the township collector, when he makes his settlement as is provided by said Section 12323, shall deposit the tax books with the ex-officio collector of the county and then when the ex-officio collector of the county makes his annual settlement, he deposits these books with the county clerk and within thirty days thereafter said clerk makes in a book called the "back tax book" a correct list in numerical order of all tracts of lands and lots which have been returned delinquent by said collectors and then the county clerk returns this corrected list to the ex-officio collector from which list the ex-officio collector performs his duties of collecting taxes as is provided by Sections 12332, 12333 and 12334. That being the case, it does not seem that the township collectors, after they have made their settlement as is provided by said Section 12233, have any further duties to perform in connection with collecting taxes, and that the duties of collecting delinquent taxes, after such settlements are made, are imposed on the ex-officio township collector.

CONCLUSION.

From the foregoing it is the opinion of this department that township collectors, between October the first and March the first of each particular year, shall diligently endeavor to use all lawful means to collect all taxes in which they are required to collect in their respective counties, and to that end they shall have the power to seize and sell the goods and chattels of the person liable for taxes, between October the first and the following March, when such collector makes his settlement.

Hon. Henry Cain

(8)

January 23, 1940

We are further of the opinion that the duties of the township collector, in regard to collecting taxes, cease after he makes his settlement under Section 12333, and that the ex-officio collector then performs all of the duties and acts necessary in collecting delinquent taxes as is provided under Sections 12332, 12333 and 12334.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General

TWB:DA