

COUNTY COLLECTORS: County collector of Morgan County is entitled
COMPENSATION: to a commission for collecting delinquent and
back taxes of two percent on the amount of de-
linquent or back tax plus interest and penalties,
pursuant to § 52.290, RSMo.

June 18, 1980

OPINION NO. 11

The Honorable James F. Antonio
State Auditor
Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Antonio:

This opinion is in response to a request from your office
asking as follows:

Is the County Collector of Morgan
County entitled to a commission for
collecting delinquent and back taxes
of two percent on the amount of delin-
quent or back tax only or two percent
on the amount of delinquent or back
tax plus interest and penalties?

Morgan County is a third class county.

In Opinion No. 13, dated March 26, 1943, to Burke, this
office concluded that the county collector is entitled to only
two percent on the delinquent tax and not on other penalties
or interest. Similarly, in our Opinion No. 83, dated June 15,
1943, to Smith, this office concluded that the county collector
is entitled to only two percent on the delinquent tax and not
on other penalties or interest. The conclusions reached in
these opinions were based upon the view that § 11106, RSMo 1939,
referred to only a two percent commission on all back taxes and
all other delinquent taxes, and that such section superseded
inconsistent language in § 11182, RSMo, 1939, which purported
to allow two percent on all sums collected. In our Opinion No.
31, dated May 9, 1957, to Francka, this office relied upon the
1943 opinion and again concluded that the two percent charge
should be made on the delinquent tax only and not on the delin-
quent tax plus other penalties or interest.

The Honorable James F. Antonio

However, that portion of § 11106, RSMo 1939, which we found to control in our earlier opinions, was deleted in 1959 at the same time that § 11182, RSMo 1939, was last amended, giving us the present § 52.290.

Section 52.290, RSMo, now provides:

In all counties the collector shall be allowed a commission for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax.

This section clearly now allows the collector such a commission on all sums collected which would include interest and penalties.

In our Opinion No. 8, dated January 9, 1975, to the State Auditor, this office concluded that the compensation of ex officio collectors of township counties was governed by § 54.320, and that such ex officio collectors in township counties are not entitled to a commission on the amount of interest or other penalties collected on delinquent taxes. In reaching that conclusion, we referred to the 1943 opinions and the 1957 opinion mentioned above. Such reference to the three prior opinions based upon statutes which were not relevant to the ex officio collector in township counties was unnecessary.

We are therefore withdrawing the two 1943 opinions and the 1957 opinion. We are not withdrawing the 1975 opinion; however, in the future when it is disseminated to the public, it will be accompanied by a copy of this opinion.

CONCLUSION

It is the opinion of this office that the county collector of Morgan County is entitled to a commission for collecting delinquent and back taxes of two percent on the amount of delinquent or back tax plus interest and penalties, pursuant to § 52.290, RSMo.

The Honorable James F. Antonio

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in cursive script that reads "John Ashcroft". The signature is written in black ink and is positioned above the printed name and title.

JOHN ASHCROFT
Attorney General