

COUNTY TREASURERS: Cost of envelopes and postage required to carry out duties imposed by H.B. 199, 66th General Assembly is expense incident to the office and not one to be personally borne by officer carrying out such duties.

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Honorable George Henry
Prosecuting Attorney
Newton County
Neosho, Missouri

Dear Sir:

The following opinion determines whether the county treasurer of Newton County is personally obligated to furnish envelopes and postage necessary for mailing forms for the use of citizens who are required to make property tax returns on intangibles as provided by Section 146.050 R.S. Mo. 1949, the added duty of furnishing such forms to the citizens being imposed on the county treasurer by House Bill No. 199, passed by the 66th General Assembly of Missouri.

House Bill No. 199, supra, provides as follows:

"Section 1. It shall be the duty of the state director of revenue to furnish, on or before the first day of January in each year, to the county treasurers of each county under charter form of government and to the county treasurers of class two, three and four counties in this state, forms for the use of the citizens of this state to make property tax returns on intangibles as provided by section 146.050, R.S. Mo. 1949, in sufficient number to meet the needs of the respective counties. At the same time the director shall furnish to each treasurer a list of the intangible taxpayers of the respective counties who filed a state intangible tax return the preceding year.

Section 2. 1. On or before the fifteenth day of January of each year every county treasurer shall mail to each intangible taxpayer as listed by the director of revenue, and to such other persons as he may have reason to believe may be possessed of taxable intangible property a form prescribed and furnished by the director of revenue, together with a brief statement of what is required of the taxpayer under the provisions of this act. Every county treasurer shall mail, on or before the first day of February of each year, to the Director of Revenue, a list of the additional names to whom he has mailed said form, which said list of additional names shall be added to the list held by the Director of Revenue as those who have intangible personal property subject to taxation.

2. The county treasurer shall keep all such lists strictly confidential and shall not reveal the contents thereof to any person except as herein provided.

Section 3. For the additional duties imposed upon county treasurers by section 2 of this act, they shall receive the following additional compensation, to be paid in the same manner and from the same funds as county treasurers are now paid provided said treasurers shall have used diligence in securing and preparing the additional list and shall have forwarded the same to the Director of Revenue.

(1) In class four counties six hundred dollars per annum.

(2) In class three counties having a population of less than twelve thousand five hundred, six hundred dollars per annum.

(3) In class three counties having a population of more than twelve thousand five hundred but less than thirty thousand, eight hundred dollars.

(4) In class three counties having a population of more than thirty thousand, one thousand dollars.

(5) In class two counties, one thousand dollars.

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(6) In counties under charter form of government a compensation to be fixed by the County Council."

A reading of the Act above quoted discloses that additional duties are imposed on county treasurers with respect to intangible property tax returns, and additional compensation is provided for carrying out those duties. Nowhere in the Act do we find any language indicating that any necessary expense incurred in carrying out the new duties is to be personally borne by the person performing such duties. The new duties are as much a part of the county treasurer's official duties as any other act he is required by statute to perform.

Section 54.110 R.S.Mo. 1949, applicable to every county treasurer in this State, provides as follows:

"He shall provide, under the direction of the county court, suitable books and stationery for his office, and preserve the same; and the court shall audit his account, and allow such sum as shall be reasonable, which shall be paid by the county."

Under the provisions of House Bill No. 199, supra, the county treasurer is faced with the mandatory duty of mailing forms to potential taxpayers. It is a duty he must perform and one which necessitates an expenditure of money for which no provision is made by the Act creating the duty. We feel that the law on this point is clearly expressed in *Ewing v. Vernon County*, 216 Mo. 681, l.c. 695, where the Court spoke as follows:

"Where * * * the law requires an officer to do what necessitates an expenditure of money for which no provision is made, he may pay therefor and have the amount allowed him. Prohibitions against increasing the compensation of officers do not apply to such cases. Thus, it is customary to allow officers expenses of fuel, clerk hire, stationery, lights, and other office accessories."

A review of the language contained in the letter directed to all county treasurers by the Director of Revenue on November 15, 1951, wherein it is said that "It will be

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necessary for you to supply the envelopes as well as the postage for the mailing," does not in our opinion convey any meaning at variance with the conclusion hereinafter reached.

CONCLUSION

It is the opinion of this department that the cost of envelopes and postage required to carry out the new and additional duties imposed upon county treasurers by House Bill No. 199, passed by the 66th General Assembly, is an expense incident to the office and not one to be borne personally by the officer carrying out such duties.

Respectfully submitted,

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APPROVED:



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