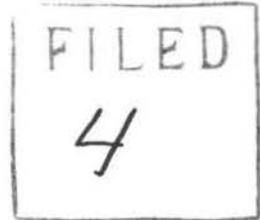


COUNTY ASSESSORS:  
SECOND CLASS COUNTIES:  
FEES AND SALARIES:

Fees earned by county assessors in second class counties for certifying copies of assessments of personal property, and merchants and manufacturers assessments on property taxable in a city to appropriate city officials may be legally retained by assessors in addition to salary provided by law, and need not be paid into the county treasury

July 17, 1948



Mr. Ralph Baird  
Prosecuting Attorney  
Jasper County  
Joplin National Bank Building  
Joplin, Missouri

Dear Mr. Baird:

We have your recent letter in which request an opinion of this department. Your letter is as follows:

"Section 10996.12-- Compensation to Assessors in Second Class Counties in Lieu of Fees-- Disposition of Fees,' provided that the county assessor 'in second class counties shall receive as compensation for his services, as provided in Section 1 of the Act, the sum of \$5000 annually in lieu of the fees provided in said section 1\* \*.'

"Section 1,' referred to above in Section 10996.12 is Section 10996.11 and in the latter a certain fee schedule is set out.

"Missouri R. S. A. Section 6719, 'County Assessors to certify assessment to council,' provides that the county assessor shall make out a return to the Board of Appraisal of a second class city in books to be furnished by the city copy of that part of the county assessor's books showing the assessment of personal property subject to taxation within such city, and also a true copy of the assessment of merchants and manufacturers may be subject to taxation by such city. This section further provides that the county assessor shall receive 10¢ per 100 words to be paid by the city for making such copy.

"Section 10996.11 lists no schedule for the assessment in regards to returning the copy of the county's assessment books to the second class city, as above set out in Section 6719.

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"The point has been raised that inasmuch as the Jasper County Assessor extends this copy for the city of Joplin on county time and from county records and reports and through the use of county equipment (books of course furnished by the city) that the compensation under Section 6719 should be paid into the county treasury and used to pay the compensation of the assessor and his deputies, as provided in Section 10996.12, and not be retained by the county assessor as compensation additional to the \$5000 per annum specified in Section 10996.12.

"Attached herewith is copy of letter from H.W. Wiggins, Auditor of Jasper County, asking for an opinion in the matter as to whether these fees should be paid to the county and retained by them or should be paid to the assessor and retained by him, and request that you provide an opinion in the matter at your earliest convenience."

Section 10996.12, R. S. A. Mo. 1939, being the same as Section 2 of the Act providing for the fees of county assessors in second class counties, appearing in Laws of Mo. 1945, p. 1532, provides as follows:

"SALARY.- The county assessor in counties of the second class shall receive as compensation for his services as provided in Section 1 of this act the sum of \$5000.00 annually in lieu of the fees provided in said Section 1, to be paid in equal monthly installments out of the county treasury. All fees to be paid by the state as provided in said Section 1 shall be paid into the county treasury and shall be used to pay the compensation of the assessor and his deputies as provided in this act."

The last sentence of said Section 2 above quoted, which provides for the payment of certain fees payable by the state into the county treasury to be used for the payment of the compensation of the assessor and his deputies, refers specifically to fees provided for by Section 10996.11 R. S. A. Mo. 1939, which is the same as Section 1 of the Act providing for fees of county assessors in second class counties (Laws Mo. 1945, p. 1552) and to no other fees.

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Said last-mentioned Section 1 of said Act (Laws Mo. 1945, p. 1552) provides for fees payable, one-half by the state and one-half by the county, for the performance of certain specified duties and is as follows:

"The fees for services of the county assessors in counties of the second class shall be thirty cents per list and six cents per entry for making real estate and tangible personal books, all the real and tangible personal property assessed to one person to be counted as one name; twenty-five cents for each merchants tax statement taken and entered in the tax book as required by Section 11309 of an act of the Sixty-third General Assembly known as House Committee Substitute for House Bill No. 536; twenty-five cents for each manufacturers tax statement taken and entered in the tax book as required by Section 1 of an act of the Sixty-third General Assembly known as House Committee Substitute for House Bill No. 539 approved November 30, 1945; and ten cents for each statistical list of land acreage and other accompanying agricultural statistics filed by the assessor with the state department of agriculture as required by Section 14030, Revised Statutes of Missouri, 1939; one-half of the above fees to be paid by the county and one-half to be paid out of the state treasury, but to be deposited in the county treasury of the respective counties as hereinafter provided. The assessor shall place the street address or rural route and post office address opposite the name of each taxpayer on the tangible personal property assessment books; provided, that nothing contained in this act shall be so construed as to allow any fee per name for the names set opposite each tract of land assessed in the numerical list."

There can be no doubt about the proposition that the \$5000 yearly salary provided for in the aforesaid Section 2 is in lieu of the fees provided for in the aforesaid Section 1 payable by the state and the county, and that these fees are to be paid into the county treasury, to be applied to the payment of said salary, and that said fees are not in addition to the \$5000 salary.

However, another fee schedule for payment for services performed by assessors in counties of the second class rendered to cities is set forth in said Section 6719, R. S. A. Mo. 1939. Said section is as follows:

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"The assessed valuation of real estate and personal property in any such city for taxation for municipal purposes shall not be greater than the assessed valuation thereof for state and county purposes, as fixed by the county assessor. The county assessor shall make out and return to the board of appraisement of such city in books to be furnished by the city, on, or before the twentieth day of January annually a copy of that part of the county assessor's books showing the assessment of personal property subject to taxation within such city, and thereafter as soon as the assessment of merchants and manufacturers shall be made, shall make out, certify and return to the city board of appraisement in like manner, a true copy of that part of the said assessment of merchants and manufacturers which may be subject to taxation by such city. For making such copy the assessor shall receive ten cents per hundred words to be paid by the city. Upon failure to make, certify and return such copy to the city board of appraisement, on, or before the date mentioned, fifty per cent (50%) shall be deducted from the assessor's compensation."

The question presented by your inquiry is whether the fees provided for by this last-mentioned statute are to be paid into the county treasury to be used in like manner as the fees earned in accordance with the provisions of Section 2 of the first above-quoted Act, or, in other words, is the \$5000 annual salary, provided for by the first above-quoted section, in lieu of all fees earned by assessor, or is it in lieu only of the fees specified in Section 1 of the Act providing for the fees of county assessors in counties of the second class (Laws Mo. 1945, p. 1552.)

Taking into consideration the fact that the specification contained in Section 2 of the last-mentioned Act of fees to be paid into the county treasury to be used for payment of the \$5000 salary specifies only the fees provided for in Section 1 of said Act, and taking into consideration the utter lack of any statutory provision for the payment of fees provided for by Section 6719, R.S.A. Mo. 1939, into the county treasury, and considering the provision in said Section 6719 R.S.A. Mo. 1939 that: "\* \* \* for making such copy the assessor shall receive ten cents per hundred words, to be paid by the city", (underscoring ours) we feel that unquestionably fees earned by assessors under the last above-cited and quoted section should not go into the county treasury, but, on the contrary, belong to the assessors as compensation for services rendered by them to the cities in question.

Mr. Ralph Baird

CONCLUSION

We are, therefore, of the opinion that fees earned by assessors by reason of work done by them for cities, in accordance with provisions of Section 6719 R. S. A. Mo. 1939, constitute compensation in addition to salary and may be retained by the assessors.

Respectfully submitted,

SAMUEL M. WATSON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General