

TAXATION:

Taxes collected for County Health Centers paid into county treasury.

HEALTH CENTERS:

COUNTY TREASURER:

January 22, 1951

1-23-51

Honorable Wayne W. Waldo
Prosecuting Attorney
Pulaski County
Waynesville, Missouri



Dear Mr. Waldo:

This is in reply to your request for an opinion which is as follows:

"The opinion of the Attorney General is respectfully requested on the following situation:

"In Pulaski County, there is a one mill tax on each \$1.00 of assessed valuation which is used for County Health purposes. There is also a County Health Council, a corporation, duly incorporated and authorized to carry on business as such, with a Treasurer under bond to perform his duties as such Treasurer.

"Since the County Health Council is a corporation, and since the Treasurer of the County Health Council is under bond, can the County Collector pay over the money from the one mill tax, as it is received, to the Treasurer of the County Health Council, in the same manner as is done in the case of a Consolidated School District or a Special Road District; or do the funds have to be handled as in a regular account of the County?

"This opinion is asked at the instance of the County Court of Pulaski County, and the County Court also urges that this opinion be obtained as soon as possible, since money will have to be expended from this fund in a few days to meet current expenses."

Honorable Wayne W. Waldo

In answering your question we will set out below several statutes which we believe applicable to the matter under consideration.

Section 205.040, RSMo 1949, provides for the organization of County Health Centers and reads as follows:

"The location, building, maintenance and operation of said public county health center shall be vested in a bona fide organization of at least two hundred and fifty resident members, paying annual dues each of at least one dollar, be a corporate body, constitution and bylaws legally adopted and its officers legally elected and qualified, and when so formed, shall be the legal and official body in the county or counties for the promotion of health activities in said county or counties. It shall cooperate with the division of health of the department of public health and welfare or its successors and shall be empowered to enter into contracts and agreements with state and federal health authorities for the furtherance of all health activities, except as herein prohibited. All personnel for the operation of the public health center shall be appointed and their compensation shall be fixed by the official organization. It shall have power to formulate, adopt and require such rules and regulations as may be needed for the operation of the center, not inconsistent with the laws of the state. It shall have exclusive control of the expenditures of all moneys collected to the credit of the health center fund; provided, that all moneys received for such health center shall be deposited in the treasury of the county to the credit of the health center, and paid out only upon warrants ordered drawn by the county court of said county or counties upon the properly authenticated vouchers of said official organization."

(Underscoring ours.)

Honorable Wayne W. Waldo

Section 54.100 RSMo 1949, provides, in part, that: "He (county treasurer) shall receive all moneys payable into the county treasury, and disburse the same on warrants drawn by order of the county court." (Words in parentheses ours.)

Section 54.140, RSMo 1949, provides for the county revenue to be kept in separate funds, and reads as follows:

"It shall be the duty of the county treasurer to separate and divide the revenues of such county in his hands and as they come into his hands in compliance with the provision of law; and it shall be his duty to pay out the revenues thus subdivided, on warrants issued by order of the court, on the respective funds so set apart and subdivided, and not otherwise; and for this purpose the treasurer shall keep a separate account with the county court of each fund which several funds shall be known and designated as provided by law; and no warrant shall be paid out of any fund other than that upon which it has been drawn by order of the court as aforesaid. Any county treasurer or other county officer, who shall fail or refuse to perform the duties required of him or them under the provisions of this section and chapters 136 to 154, RSMo 1949, and in the express manner provided and directed, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, and not more than five hundred dollars, and in addition to such punishment, his office shall become vacant."

Section 139.220, RSMo 1949, provides for the collector to pay his collections into the county treasury, and is as follows:

"Every collector of the revenue having made settlement, according to law, of county revenue by him collected or received, shall pay the amount found due

Honorable Wayne W. Waldo

into the county treasury, and the treasurer shall give him duplicate receipts therefor, one of which shall be filed in the office of the clerk of the county court, who shall grant him full quietus under the seal of the court."

In view of the various statutes setting forth the duties of the county treasurer, and particularly in view of the clearly stated language contained in Section 205.040, supra, which we have underlined, there seems to be no doubt but that the money is to be paid into the county treasury and there kept in a separate fund to be paid out only upon warrants ordered drawn by the county court.

In this connection we believe it well to point out the conclusion stated in an opinion to Honorable Edgar Mayfield under date of January 10, 1950, to the effect that the control over the expenditures of these moneys is exclusively vested in the health center organization and when the county court receives a properly authenticated voucher from the official health center organization to cover an expenditure for a purpose within the control of said organization, a warrant must be issued.

CONCLUSION.

Therefore, it is the opinion of this department that the taxes collected for County Health Centers are to be paid into the county treasury and not turned over to the treasurer of the County Health Center Council. The moneys to be deposited in a separate fund and paid out only upon warrants ordered drawn by the county court.

Respectfully submitted,

JOHN R. BATY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General