

County Clerk, Duties With Reference to Collection of City Taxes. County Treasurer, Duties With Reference to Collection of City Taxes. City Taxes, Duties of County Clerk and County Treasurer in Collection Of.

The county clerk on or before the first Monday in October must furnish a duplicate of the corrected assessment book for each city in the county, the treasurer of which is required by ordinance of such city to collect its taxes, so far as the same pertains to city property.

Where the city has not provided for the collection of its taxes this duty falls upon the county treasurer and he is required in this instance to make the extensions in the assessment book.

June 25, 1912.

Hon. John Hurley,
County Attorney,
Glasgow, Montana.

Dear Sir:

I am in receipt of your letter of the 18th inst., requesting my official opinion as to what are the duties of the county clerk and county

treasurer with reference to the collection of city taxes.

In reply I will say it is the duty of the county clerk on or before the first Monday in October in each year to make a duplicate of the corrected assessment book for each city in the county, the treasurer of which is required by ordinance of such city to collect its taxes; so far as the same pertains to city property (Sec. 3353, Rev. Codes.) It is apparent that he is only required to furnish this copy to such cities as by ordinance have provided for the collection of their taxes. Such duplicate must be made in a book furnished by such city clerk. (Sec. 3354, Rev. Codes.) Upon delivering the book to the city treasurer, the county clerk must take his receipt therefor; and must attach to the book an affidavit similar to the one set out in Sec. 2609, Revised Codes. (Sec. 3355, Rev. Codes.) In this affidavit the county clerk is required to state under oath nothing more than is necessary to make the fact appear that he has complied with the law in this respect, that is, with the provisions of Secs. 3353 and 3354.

State ex rel. City of Butte v. Weston, 29 Mont. 131.

The purpose of these provisions is that the basis of state, county and city taxes shall be the same, and that the duty of the county clerk in relation to the taxes of cities shall extend no further than to furnish to the authorities of cities to which Secs. 3353, et seq. apply, the same valuations as far as they appertain to such cities as those used for the state and counties.

State ex rel. City of Butte v. Weston, supra.

When the book has been furnished by the county clerk, as required by the sections referred to, it is the duty of the city treasurer to make the extensions and collect the taxes. (Sec. 3354.) It is apparent that the county clerk could not make the extensions, for the reason that there is no provision of law whereby he is notified of the amount of the city levy; and he is not required to furnish the book to the city treasurer until the first Monday in October, which is the same day that the time expires for the city council to determine their levy. It is apparent that the only duty devolving upon the county clerk is to furnish the duplicate assessment book showing all property subject to taxation within the city, with the valuations thereof, so that the city treasurer may make the extensions and collect the taxes.

The City Council must, on or before the first Monday of October of each year, by resolution determine the amount of city taxes for all purposes, to be levied and assessed on the taxable property in the city for the current fiscal year, and the city clerk must at once certify to the county treasurer (not town treasurer—see 5th Session Laws, p. 224), a copy of such resolution, and the county treasurer must collect the taxes; unless, of course, the city has provided for the collection of its own taxes, in which event the county treasurer has nothing to do with it, and the amount of the levy is certified by the city clerk to the city treasurer. (Sec. 3358, Rev. Codes.) It is also apparent from the provisions of these sections that where the duty of collecting city taxes falls upon the county treasurer, he must make the extensions in the assessment book. The city cannot do it, for in such case it has nothing to do with the collection of the taxes; and the county clerk cannot

do it, for the reasons above stated, and as the statute requires the county treasurer to collect the taxes, and also requires that the amount of the levy shall be certified to him, the only conclusion which can follow is that he shall make the extensions of the taxes.

Yours very truly,

ALBERT J. GALEN,

Attorney General.