

GASOLINE TAX
CITIES, TOWNS AND
VILLAGES
CITY COLLECTOR

City collectors are not entitled to a commission for any alleged "collection" of gas tax since the State of Missouri collects the tax and has been compensated for such collection.

OPINION REQUEST NO. 403
(Bushmann)

November 5, 1962



Manesgraphed

Honorable John M. Dalton
Governor of Missouri
Executive Office
Jefferson City, Missouri

Dear Governor Dalton:

Several weeks ago you forwarded to this office a letter addressed to you by Mr. R. S. "Pat" Patterson, City Clerk of Malden, Missouri. Mr. Patterson's letter is as follows:

"This letter concerns the State Gas Tax:

"Our Ordinance reads that the City Collector shall receive a commission of 4% on all monies due and coming to the City of Malden, Mo.

"There seems to be a question as to whether our Ordinance covers this gas tax. I claim that it is a tax and should be handled the same as any other tax money collected by the City Collector, and she should receive her commission.

"Please advise."

You referred Mr. Patterson's letter to this office for our opinion. After corresponding with Mr. Patterson, we obtained a copy of the Malden ordinance which provides for the city collector of Malden to receive a 4% commission "for his services in collecting any and all revenue due and owing to the City of Malden, Missouri, which he is authorized and entitled to collect * * *."

By way of background, I think it is necessary to draw your attention to the special language found within the recently enacted gas tax amendment, Art. IV, Sec. 30(a) (b), Missouri Constitution, 1945. At Sec. 30(a) 1, it is stated:

"On and after the first day of the month next following the adoption of this section, a tax upon or measured by fuel used for/propelling highway motor vehicles shall be levied and collected as provided by law. Any amount of the tax collected with respect to fuel not used for propelling highway motor vehicles shall be refunded by the state in the manner provided by law. The remaining net proceeds of the tax, after deducting costs of collection, apportionment and making refunds shall be apportioned between the counties, cities and the state as hereinafter provided and shall stand appropriated without legislative action for the following purposes: * * *."
(Emphasis ours).

If any city official receives gas tax money from the Department of Revenue, then that money should be deposited to the credit of the city. The city collector should not deduct any amount from these revenues as a commission for "collection" since in fact and in law he has not collected the city's gas tax. The previously quoted Constitutional amendment empowers the state to collect the gas tax; the money has been collected by the state; and the state has been compensated for this collection.

Since the Collector is not authorized to collect gas tax revenues, nor constitutionally could he be authorized to collect gas tax revenues, then he is not entitled to receive any compensation on receipt of the city's gas tax check.

CONCLUSION

It is the opinion of this office that under the new gas tax constitutional amendment the State of Missouri shall

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collect the tax and the cost of such collection is to be subtracted from the gross proceeds. The Director of Revenue shall forward the city's allocated share to the city and no further alleged cost of collection can or should be deducted.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Eugene G. Bushmann.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

EGB:msw