

COUNTY COLLECTOR:  
FIRE PROTECTION DISTRICT:

The Collector of St. Louis County in collection of Fire Protection District taxes should deduct a commission of one per cent of such taxes.

FILED  
30

February 7, 1964

Opinion No. 30

Honorable E. J. Cantrell  
State Representative  
3406 Airway  
Overland 14, Missouri

Dear Mr. Cantrell:

This is in response to your request for an opinion of this office, which reads in part as follows:

"As you will recall, all Fire Protection Districts in St. Louis County have been incorporated pursuant to the Fire District Act as found in Sections 321.010 to 321.450 of the Revised Statutes of Missouri for 1959. Section 321.270 of that Act provides as follows:

"321.270 Duty to levy and collect taxes--delinquent taxes constitute a lien

"1. The body having authority to levy taxes within the county shall levy the taxes provided in sections 321.010 to 321.450, and all officials charged with the duty of collecting taxes in the county shall collect such taxes at the time and in the manner and with like interest and penalties as other taxes are collected. When collected such taxes shall be paid to the district ordering the levy and collection, or entitled to the same,

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and the payment of such collections shall be made monthly to the treasurer of the district and paid into the depository thereof to the credit of the district. All funds received by the district shall be deposited in a depository and secured in the manner provided by law for the deposit of county funds.'

"(Emphasis added)

"Senate Bill No. 259 as enacted by the 72nd General Assembly and which has now been numbered as Section 52.260 of the Revised Statutes of Missouri, provides in part as follows:

"52.260 Commissions

"The collector in counties not having township organization shall collect and retain the following commissions for collecting all state, County, bridge, road, school & all other LOCAL taxes, including merchants', manufacturers and liquor and beer licenses, other than back, delinquent and ditch and levee taxes, and the commissions constitute his compensation except in counties where the collector is paid a salary in lieu of fees.'

"Paragraph 15 of Section 52.260 provides as follows:

"(15) In counties wherein the total amount levied for any one year exceeds four million dollars, a commission of 1% on the amounts collected.'

"I have advised the Fire Protection Districts in my district that there is a serious question in my mind regarding the liability of such Districts to permit the St. Louis

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County Collector of Revenue the right to deduct the sum of 1% from the taxes so collected by him from Fire Protection Districts. I base my opinion on the fact that Section 321.270 of the Revised Statutes of Missouri requires the St. Louis County Collector to collect all of the taxes so levied by the Fire Protection Districts and to remit all of such taxes monthly to the Treasurer of the District.

"It is my position that if the Missouri Legislature had intended to authorize the Collector of Revenue to charge the Fire Districts for the collection of such taxes that such statement would have been made. Likewise, it is my opinion that Senate Bill No. 259 (Section 52.260 of the Statutes) does not, in exact terms, authorize the Collector to retain a Commission for the collection of Fire Protection District taxes. You will please note that in the Paragraph I have quoted above from Senate Bill No. 259 no reference is made to collection of taxes for Fire Protection Districts."

We enclose herewith a copy of an opinion issued under date of September 4, 1963, to the Honorable Alfred A. Speer, which opinion holds that the one per cent deduction authorized by Senate Bill 259 of the 72nd General Assembly in counties such as St. Louis County became effective on October 13, 1963.

Senate Bill 259 of the 72nd General Assembly is now codified as Section 52.260, RSMo Cum. Supp. 1963, and provides in part that "the collector . . . shall collect and retain (the amount specified thereafter) for collecting all state, county, bridge, road, school and all other local taxes, . . . ." (parenthetical matter supplied and emphasis added)

We believe that the universal reference to "all other local taxes" encompasses taxes levied and collected under the authority of Section 321.230, RSMo 1959. You will note that that section authorizes the board "to order the levy and collection of ad valorem taxes on and against all taxable and tangible property within the district, . . . ." Such a tax, therefore, must be regarded as a local tax.

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Viewing this section in the light of Section 321.270, RSMo 1959, which provides in part that such taxes shall be collected "in the manner . . . as other taxes are collected . . .", impels the conclusion that the deduction authorized and directed by Section 52.260, RSMo Cum. Supp. 1963, must be withheld from taxes collected under the authority of Section 321.230, RSMo 1959.

#### CONCLUSION

It is the opinion of this office that the Collector of St. Louis County should deduct a commission of one per cent from all taxes collected under the provisions of Section 321.230.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Albert J. Stephan, Jr.

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General

AJS:lt  
Enclosure 1