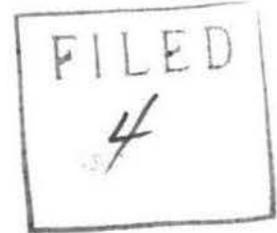


COUNTY COLLECTORS: 1. County and/or township collectors  
TOWNSHIP COLLECTORS: may charge commissions authorized to  
SOCIAL SECURITY: them against funds collected for  
LIBRARIES: library purposes. 2. The County  
COUNTY LIBRARIES: Library Board is not required to make  
payments from library funds of the  
"employer's share" of social security tax payments for the benefit  
of the county or township collectors who have collected library taxes  
for the reason that such payments do not constitute taxable wages  
paid by an employer to an employee within the meaning of the Social  
Security Act.

OPINION NO. 4

June 8, 1970

Honorable Charles O'Halloran  
State Librarian  
Missouri State Library  
308 East High Street  
Jefferson City, Missouri 65101



Dear Mr. O'Halloran:

This official opinion is issued in response to your request for a ruling regarding the following matters:

1. May county and/or township collectors charge commissions authorized to them against funds collected for library purposes?
2. Can the County Library Board be required to make payments from library funds of the "employer's share" of social security payments for the benefit of the county or township collector who has collected the library taxes?
3. Is there anything in the law providing for taxation for either city or county library districts which declares these taxes to be dedicated to the degree that they cannot be used except for purposes directly related to the library's internal programs?

With respect to the first question raised in your letter, it is our opinion that county and township collectors may deduct from library tax moneys collected by them the amount of fees authorized by statute. This authority is specifically granted to county collectors in Section 52.260, RSMo 1959, where it is stated that the county collector shall collect and retain certain commissions for collecting all state, county, bridge, road, school and all other local taxes. The commissions are based on a sliding scale depending upon the amount of the tax levy and the amount collected and the commissions are to be deducted and retained by the collector out of the amounts collected. (Section 52.260, 139.430 (4), RSMo.)

Honorable Charles O'Halloran

Likewise, Section 139.430, RSMo 1959, in relation to township collectors, states that the township collector shall receive a commission based upon certain percentages of all moneys collected by him.

The system for collecting library taxes is the same as that provided for collection of other property taxes by the political sub-divisions of the state. Chapter 137 of the Revised Statutes of Missouri, 1959, sets forth detailed procedures for levy and assessment of taxes generally and the delivery of the tax books to the collector. Chapter 139 of the Revised Statutes sets forth detailed procedures for collection of taxes. These assessment and collection procedures relate to library taxes as well as state, county, bridge, road, school and other taxes. There is no authority for handling the collection of library taxes and the payment of commissions for such collection by county and township collectors in a manner different from school taxes or other taxes of a local character.

The second question relates to the expenditure of library funds for payment of the employer's share of social security taxes on fees or commissions received by county or township collectors in connection with library taxes. This office has rendered a recent opinion which appears to be determinative of this question. Attorney General Opinion No. 65-Vaughn-1970. In the opinion it was stated:

"The same rule appears to be applicable insofar as the relationship between the township collector and the county is concerned. In other words, the township collector is an officer of the township but not of the county or the state, and the county clerk and the county assessor are officers of the county but not of the state or township. \* \* \* Accordingly, it must be concluded that the county collectors and county assessors are employees of the county, and the township collectors are employees of the township in each instance. They are not employees of any other political entity. It follows that the county is the employer of the county clerk and the county assessor and the township is the employer of the township collector for the purposes of the Social Security Act, and the reporting of fees or wages required thereby should be made on this basis. \*\*\* In the matter under consideration the fees received from collecting school taxes are not paid by an employer to an

Honorable Charles O'Halloran

employee for services performed for the employer. The township collector is not an employee of the school district and therefore the fees do not constitute wages subject to the Act."

An opinion rendered by this office October 27, 1961, issued to Charles D. Trigg, contains the following language:

"While it is true that township collectors collect taxes for the county and state as well as the township itself (and also must account to the county court, Section 139.420), such fact does not make the collector a county officer anymore than it makes him an officer of the school district by reason of collecting school taxes."

In the present matter it is our view that the county or township collectors are not employees of the library districts and therefore the fees deducted from library tax funds do not constitute wages paid by the library districts upon which they must pay the employers share of Social Security Taxes.

As to the third question raised in your letter, it is assumed this relates to use of library funds to pay collectors' commissions which has been discussed hereinbefore. As there indicated the law clearly provides for such expenditures.

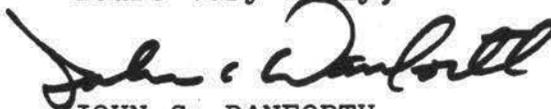
#### CONCLUSION

Therefore, it is the opinion of this office that:

1. County and/or township collectors may charge commissions authorized to them against funds collected for library purposes.
2. The County Library Board is not required to make payments from library funds of the "employer's share" of social security tax payments for the benefit of the county or township collectors who have collected library taxes for the reason that such payments do not constitute taxable wages paid by an employer to an employee within the meaning of the Social Security Act.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John E. Park.

Yours very truly,



JOHN C. DANFORTH  
Attorney General