

June 23, 2006
OPINION NUMBER 05-0348

160 TAXATION – Sales Tax
107 SHERIFFS – Ex Officio Tax
Collectors

La. R.S. 47:303

Honorable Ronald “Gun” Ficklin
Sheriff and Ex-Officio Tax Collector
St. Helena Parish
P.O. Box 1205
Greensburg, Louisiana 70441

The St. Helena Parish Sheriff’s Department is
not entitled to a fee or commission on taxes
collected by the Sheriff of Public Safety.

Dear Sheriff Ficklin:

You requested an Attorney General’s opinion regarding the collection of sales taxes. You indicate that the Department of Public Safety (“DPS”) remits the sales taxes collected on vehicles to the political subdivision that imposed the tax. DPS issues checks made payable to the different political subdivisions and mails the checks to the central tax collector, the St. Helena Parish Sheriff’s Department (“Sheriff”). The Sheriff deposits the monies into the sales tax accounts, and at the end of the month, the Sheriff collects its commission and issues checks to the different taxing bodies. You question whether the Sheriff is entitled to commissions on the sales taxes remitted by DPS.

The Sheriff is the central collector for the parish, and collects sales taxes and use taxes for the Town of Greensburg, the St. Helena Parish Police Jury and the St. Helena Parish School Board (collectively, “Taxing Bodies”). The Taxing Bodies have each passed a resolution or motion under which the Sheriff collects sales taxes on behalf of each Taxing Body. The resolution and motions each set forth the amount of commission or fee to be retained by the Sheriff. However, the Taxing Bodies have also entered into contracts with DPS for the collection of sales and use taxes on motor vehicles (“Vehicle Tax”). Under these contracts, DPS collects the taxes imposed by the Taxing Bodies and keeps one percent (1%) of the total amount of tax collected which is used to pay the cost of collecting and remitting the taxes to the Taxing Bodies, as required by La. R.S. 47:303(3)(b)(ii). The contracts with DPS each provide in part:

It is understood and agreed by the parties hereto that the Department, shall collect the ONE percent (1%) sales and use tax imposed by said governing body less one percent (1%) of the total amount of the tax collected, which the Department is required by law to retain as partial reimbursement for the expense of collection. Under the ordinance, vendor’s compensation of ONE Percent (1%) rate is allowed. It is

distinctly understood and agreed that the Department is to collect said tax on the same basis that he collects the Louisiana General Sales Tax.

As indicated above, the resolution and motions passed by the Taxing Bodies provide for the Sheriff to collect sales taxes on behalf of the Taxing Bodies. The resolution passed by the Greensburg Town Council and excerpts from the minutes of the St. Helena Parish Police Jury and the St. Helena Parish School Board regarding the collection of taxes by the Sheriff provide as follows:

Greensburg Town Council Resolution

"We, the Greensburg Town Council do hereby agree for the St. Helena Parish Sheriff's Office to collect Town of Greensburg's 1 % sales tax for a fee of 2 % beginning July 1, 1992."

St. Helena Parish Police Jury, excerpt from minutes of the January 28, 1992 regular session

"A motion was made by Mr. Charles Davis, seconded by Mr. Charlie Overton and unanimously adopted by the Police Jurors to designate the Sheriff as sales tax collector for St. Helena Parish, to begin as soon as possible, at the existing commission rate of four percent (4%) for collection of Police Jury's sales tax—Parishwide Roads @ one (1%) percent and Solid Waste Management @ one (1%) percent."

St. Helena Parish School Board, excerpt from minutes of the February 11, 1992 regular session

"Mr. Horace Lee made the motion, seconded by Mr. Wesley Blades, to approve request by Sheriff Eugene Holland to collect Sales Tax for a percentage of 3%, beginning April 1, 1992; this percentage was for the present, but could go up or down. The motion was unanimously adopted."

The resolution and motions provide that the Sheriff shall receive a fee or commission on sales tax collected by the Sheriff. However, the Vehicle Tax is not collected by the Sheriff. Rather, the Vehicle Tax is collected by DPS in accordance with its contracts with the Taxing Bodies, and DPS forwards checks to the Taxing Bodies care of the Sheriff. Therefore, it is the opinion of this office that because the Sheriff does not collect the taxes remitted by DPS, the Sheriff is not entitled to a fee or commission on those taxes.

Trusting this adequately responds to your request, we remain

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: _____
KENNETH L. ROCHE, III
Assistant Attorney General

CCF, JR/KLR, III/jv

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Date Received:

Date Released: June 23, 2006

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ASSISTANT ATTORNEY GENERAL