



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

July 25, 2013
Opinion 13-0038

Hon. Eugene Smith
Mayor, Town of Arcadia
P.O. Box 767
Arcadia, LA 71001

160 TAXATION - Sales Tax

La. Rev. Stat. 47:303

The Bienville Parish School Board is not entitled to a fee or commission on taxes collected by the Department of Public Safety.

Dear Mayor Smith:

Your opinion request has been assigned to me for research and reply. You have asked for our opinion on a matter related to the collection of sales taxes. According to your request, the Bienville Parish School Board ("Board") serves as the tax collection agency for Bienville Parish. Specifically, you ask the following question: Since the Louisiana Department of Public Safety and Corrections ("DPS") collects the sales taxes on vehicle purchases for the Town of Arcadia, is Arcadia obligated to pay the 1 ½% the Board charges for collecting sales taxes?

Our office addressed a similar question in Attorney General Opinion No. 05-0348. There, we were asked by the St. Helena Parish Sheriff's office whether the Sheriff was entitled to commissions on the sales taxes remitted by DPS. In his request, the Sheriff indicated that DPS remits the sales taxes collected on vehicles to the political subdivision that imposed the tax. DPS then issues checks made payable to the different political subdivisions and mails the checks to the Sheriff as the central tax collector. 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. The Sheriff asked for our opinion as to whether he was entitled to commissions on the sales taxes remitted by DPS.

In our response, we recognized that the acts passed by the particular taxing bodies at issue authorized the Sheriff to collect sales taxes on behalf of the taxing bodies. The acts further provided that the Sheriff was to receive a fee or commission on the sales taxes collected by the Sheriff. However, it was our opinion that the vehicle tax was not collected by the Sheriff. Rather, the vehicle tax was collected by DPS in accordance with its contracts with the taxing bodies, and DPS then forwarded checks to the taxing bodies care of the Sheriff. Therefore, it was our opinion that because the Sheriff did not collect the taxes remitted by DPS, the Sheriff was not entitled to a fee or commission on those taxes. La. Atty. Gen. Op. No. 05-0348.

La. Rev. Stat. 47:303 governs the collection of sales and use tax on vehicles and provides, in pertinent part, the following:

(B)(3)(b)(i) The vehicle commissioner and the governing body of any political subdivision as defined in Article VI, Section 44(2) of the Constitution of Louisiana, in which a sales or use tax has been imposed by such political subdivision on the sale or use of motor vehicles, shall enter into an agreement by which the vehicle commissioner shall collect such tax on behalf of the political subdivision. Except as provided in Paragraph (5) of this Subsection, no certificate of title or vehicle registration license shall be issued until such local tax is paid.

(ii) The tax imposed by the political subdivisions on the sale or use of vehicles subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be collected by the vehicle commissioner and distributed to the political subdivisions as provided for in R.S. 47:301(10)(f) and (18)(b). The vehicle commissioner shall withhold from any such taxes collected for the political subdivisions one percent of the proceeds of the tax so collected, which shall be used by the commissioner to pay the cost of collecting and remitting the tax to the political subdivisions.

Our office has been provided a copy of the agreement referenced by La. Rev. Stat. 47:303(B)(3)(b)(i) ("Agreement"). Our reading of the Agreement reveals that it is executed by and between the Undersecretary of DPS on behalf of DPS and the Vehicle Commissioner, and all the political subdivisions within Bienville Parish, represented therein by the Board. The Agreement between the Board and DPS provides that as compensation for its service and to pay the cost of collecting and remitting the taxes, DPS is authorized to withhold from the taxes collected one percent (1%) of the proceeds of the taxes so collected. DPS is required to remit to the Board the proceeds, less this one percent (1%), each month for distribution to the appropriate taxing jurisdictions within Bienville Parish. The Agreement also requires DPS to post information that enables the Board to distribute the proceeds to the appropriate taxing jurisdictions each month.

In accord with Attorney General Opinion No. 05-0348, it is the opinion of this office that because the Board does not collect the taxes remitted by DPS, the Board is not entitled to the fee or commission for collecting those taxes as provided by La. Rev. Stat. 47:303(B)(3)(b)(ii). Nevertheless, it is also our opinion that the Board and Town of Arcadia are free to enter into an intergovernmental

agreement whereby the Board may charge a reasonable handling fee for receiving payments from DPS.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:

MICHAEL J. VALLAN
Assistant Attorney General

JDC/MJV/chb