

Poll Taxes—Collection by Employer—Commission for Collection of.

An employer is not authorized by law to charge a commission for collecting poll taxes from his employees.

Department of Agriculture, Labor and Industry,
Helena, Montana.

Gentlemen:

Your inquiry whether the law permits an employer to collect a commission of ten per cent from his employees for the collection of poll tax has been received.

The statute relating to the collection of the road tax from the employer is Section 4 of Sub-Chapter II of Chapter 172 of the Laws of 1917, reading as follows:

"If any person required to pay the special road tax mentioned in this Act, does not pay the same and has no property subject to taxation, and the person owing the same is in the employment of any other person, the County Treasurer must deliver to the employer a written notice, stating the amount of tax due for such employee and from the time of receiving said notice the employer is liable to pay said tax, and the tax so paid may be deducted by such employer from the amount then due or to become due to such employee."

That relating to the poor tax, is Section 2702 of the Revised Codes of 1907, reading as follows:

"Every person, corporation or association employing one or more persons subject to poll tax are liable for any and all poll taxes that may be due from such employes, and may deduct the amounts paid out for such poll taxes from any sums due, or that may afterwards become due, from such employes, whether the wages are payable directly to the employes or to other persons who furnish such employes under contract."

It is to be noted that the statutes make the employer liable for the tax from the time of receipt of notice from the County Treasurer and authorize only the amount of the tax to be deducted by the employer from the wage of the employee.

In view of the fact that the statute makes no provision for the charging of a commission by the employer, any such commission charged and deducted by the employer is unauthorized by law and, in my opinion, is illegal.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.