

**Cities and Towns—County—County Assessor—County Treasurer—Taxes.**

The County Assessor or his deputy may not legally receive a commission from a city or town for the collection of the city or town taxes.

L. Q. Skelton, Esq.,  
State Examiner,  
Helena, Montana.

My dear Mr. Skelton:

You have requested my opinion as to whether a County Assessor or his deputy can legally receive a commission from a city or town for the collection of personal taxes.

Section 5214, Revised Codes of 1921, makes it the duty of the County Treasurer to collect city and town taxes. This section provides, in part, as follows:

“The County Treasurer of each county must collect the tax levied by all cities and towns in his respective county, except in cases of such cities of the first and second and third classes as may provide by ordinance for the City Treasurer to collect the taxes from such corrected assessment book. The County Treasurer must collect such city or town taxes, including unpaid road poll taxes, at the same time as the state and county taxes, with the same penalties and interest in case of delinquency. All publications for sales for delin-

quent taxes shall include such city or town taxes, there being but one sale for each piece of property, such sale to cover the aggregate of such city or town, county, and state taxes, with the penalties, interest, and cost of advertising provided by law."

The Supreme Court of this state, in commenting upon this section of the statute in the case of *State ex rel. City of Cut Bank v. McNamer*, 62 Mont. 490, said:

"The city of Cut Bank has never provided by ordinance for the collection of taxes levied by such city by its City Treasurer, and it therefore became the duty of the County Treasurer of Glacier county to collect them."

It is the duty, therefore, of the County Treasurer to collect city and town taxes, except in cases of such cities and towns of the first, second and third classes that have provided by ordinance that the City Treasurer shall collect the same.

This duty cannot be delegated to another by the County Treasurer so as to require the city or town to pay a commission for such services.

It is, therefore, my opinion that the County Assessor or his deputy may not legally receive a commission from a city or town for the collection of city or town taxes.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.