



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Ernest Tibbets
County Attorney
Hale County
Plainview, Texas

Dear Mr. Tibbets:

Opinion No. O-4570
Re: Withholding Victory Tax.

Your letter of December 31, 1942, advises that certain officials in Hale County are paid in part by the county and in part by the State or by other counties. You ask the following questions:

- (1) Is the county clerk the proper official to withhold the Victory Tax?
- (2) Should the County Clerk of Hale County withhold the Victory tax from the monthly salaries paid the officials and agents?

In answering your first question, we assume that the warrants for the Hale County salary payments are issued by the County Clerk. In such case, the County Clerk is the "withholding agent" under the Federal Act. See our opinion No. O-5022, copy of which is attached.

Referring to your second question, you are advised that the County Clerk should withhold the Victory Tax from the Hale County salary payments. The amount of the tax will be five per cent of the salary paid by Hale County, after allowing the withholding deduction provided in Section 466 of the Federal Act.

Each agency paying salary to the official is to be treated as an employer under the Act, and should withhold the tax from its payments. There is no provision in

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the Act for apportioning the withholding deductions when the employee is paid by more than one employer; consequently the full withholding deduction is to be allowed by each employer in computing the amount of salary paid by it subject to the tax. This, we are informed, is the rule which is being applied by the Collectors of Internal Revenue.

Very truly yours

ATTORNEY GENERAL OF TEXAS
ER. W. Fairchild (s)
Assistant

R.W.F.-MR
Enclosure

Approved Jan 9, 1943
Gerald C. Mann (s)
Attorney General of Texas

APPROVED OPINION COMMITTEE
BY B.W.B. CHAIRMAN (s)