



OFFICE OF
Circuit Clerk Of Madison County
ANITA WRAY, CIRCUIT CLERK

TO: Greg Higginbotham
Nason White

FROM: Anita Wray, Circuit Clerk

DATE: November 25, 2024

RE: Criminal and Civil Bank Interest

It has come to my attention through the Mississippi Circuit Clerk's Association that bank interest from both the Criminal and Civil clearing accounts should have never been settled to the Board of Supervisors each month. This has been confirmed with the State Auditor's Technical Assistance Division. Attached, you will find two (2) Attorney General Opinions that confirm this.

Bank interest was settled from the Criminal and Civil accounts to the Board of Supervisors from November 2018 until May 2024. Attached is the monthly settlement that was made during this time frame. I respectfully ask that the Board of Supervisors return these funds to the Circuit Clerk's office.

The total amount that is requested is \$4,765.51

If you have any questions, please contact me.

2018

	A	B	C	D	E	F
1						
2	MONTH	CR.#3.8971	CR.5601	CV.8963	CV.5593	
3						
4	NOVEMBER	\$18.93	\$1.25	\$98.33	\$0.05	
5	DECEMBER	\$20.23	\$1.30	\$101.67	\$0.05	
6	TOTAL	\$39.16	\$2.55	\$200.00	\$0.10	\$241.81

2019

	A	B	C	D	E	F
1	MONTH	CR #38971	CR5601	CV8963	CV5593	
2						
3	JANUARY	\$21.07	\$1.29	\$41.11	\$0.05	
4	FEBRUARY	\$19.12	\$1.16	\$3.86	\$0.04	
5	MARCH	\$21.36	\$1.16	\$3.03	\$0.05	
6	APRIL	\$20.58	\$1.30	\$3.59	\$0.05	
7	MAY	\$21.08	\$1.25	\$3.72	\$0.05	
8	JUNE	\$19.82	\$1.29	\$3.42	\$0.05	
9	JULY	\$20.64	\$1.29	\$3.40	\$0.05	
10	AUGUST	\$20.62	\$1.30	\$3.01	\$0.05	
11	SEPTEMBER	\$19.79	\$1.25	\$2.96	\$0.05	
12	OCTOBER	\$20.37	\$1.29	\$3.07	\$0.05	
13	NOVEMBER	\$20.31	\$1.25	\$3.11	\$0.05	
14	DECEMBER	\$21.52	\$1.30	\$3.47	\$0.05	
15						
16	TOTAL	\$246.28	\$15.13	\$77.75	\$0.59	\$339.75

2020

	A	B	C	D	E	F
1	MONTH	CR #38971	CR 5601	CV 8963	CV 5593	
2						
3	JANUARY	\$22.04	\$1.29	\$3.16	\$0.05	
4	FEBRUARY	\$21.52	\$1.21	\$2.94	\$0.04	
5	MARCH	\$23.30	\$1.29	\$3.37	\$0.05	
6	APRIL	\$22.42	\$1.25	\$2.87	\$0.05	
7	MAY	\$22.96	\$1.29	\$2.91	\$0.05	
8	JUNE	\$22.59	\$1.25	\$3.51	\$0.05	
9	JULY	\$23.18	\$1.30	\$2.97	\$0.05	
10	AUGUST	\$23.17	\$1.29	\$3.13	\$0.05	
11	SEPTEMBER	\$22.49	\$1.25	\$3.24	\$0.05	
12	OCTOBER	\$23.18	\$1.30	\$3.21	\$0.05	
13	NOVEMBER	\$22.52	\$1.25	\$3.87	\$0.05	
14	DECEMBER	\$22.01	\$1.29	\$3.48	\$0.05	
15						
16	TOTAL	\$271.38	\$15.26	\$38.66	\$0.59	\$325.89

2021

	A	B	C	D	E	F
1	MONTH	CR #38971	CR5601	CV 8963	CV 5593	
2						
3	JANUARY	\$29.83	\$1.80	\$4.84	\$0.07	
4	FEBRUARY	\$58.38	\$3.50	\$10.00	\$0.14	
5	MARCH	\$64.68	\$3.88	\$10.86	\$0.15	
6	APRIL	\$64.69	\$3.76	\$12.00	\$0.15	
7	MAY	\$63.94	\$3.88	\$37.52	\$0.15	
8	JUNE	\$62.01	\$3.76	\$40.07	\$0.15	
9	JULY	\$64.00	\$3.89	\$34.80	\$0.15	
10	AUGUST	\$64.44	\$3.88	\$32.15	\$0.15	
11	SEPTEMBER	\$42.80	\$3.76	\$31.34	\$0.15	
12	OCTOBER	\$41.83	\$3.88	\$32.09	\$0.15	
13	NOVEMBER	\$40.52	\$3.76	\$29.94	\$0.14	
14	DECEMBER	\$41.95	\$3.89	\$31.72	\$0.16	
15						
16	TOTAL	\$639.07	\$43.64	\$307.33	\$1.71	\$991.75

2022

	A	B	C	D	E	F
1	MONTH	CR #3 8971	CR 5601	CV 8963	CV 5593	
2						
3	JANUARY	\$43.03	\$3.89	\$34.33	\$0.15	
4	FEBRUARY	\$38.93	\$3.51	\$30.37	\$0.13	
5	MARCH	\$42.32	\$3.88	\$33.76	\$0.15	
6	APRIL	\$39.60	\$3.77	\$33.50	\$0.15	
7	MAY	\$40.56	\$3.89	\$34.74	\$0.15	
8	JUNE	\$39.66	\$3.76	\$39.55	\$0.15	
9	JULY	\$40.11	\$3.89	\$40.73	\$0.15	
10	AUGUST	\$40.47	\$3.89	\$40.75	\$0.15	
11	SEPTEMBER	\$40.34	\$3.76	\$31.48	\$0.15	
12	OCTOBER	\$45.69	\$3.89	\$32.63	\$0.15	
13	NOVEMBER	\$48.98	\$3.77	\$32.41	\$0.14	
14	DECEMBER	\$52.53	\$3.89	\$33.06	\$0.16	
15						
16	TOTAL	\$512.22	\$45.79	\$417.31	\$1.78	\$977.10

2023

	A	B	C	D	E	F
1	MONTH	CR #38971	CR 5601	CV 8963	CV 5593	
2						
3	JANUARY	\$53.70	\$3.89	\$32.04	\$0.15	
4	FEBRUARY	\$54.94	\$3.52	\$29.70	\$0.01	
5	MARCH	\$67.46	\$3.89	\$32.65	\$0.15	
6	APRIL	\$65.29	\$3.77	\$31.95	\$0.15	
7	MAY	\$66.87	\$3.90	\$32.47	\$0.15	
8	JUNE	\$66.02	\$0.88	\$32.03	\$0.04	
9						
10	TOTAL	\$374.28	\$19.85	\$190.84	\$0.65	\$585.62
11		Transferred 5601 to 8971		Transferred 5596 to 8963		
12						
13	JULY	\$68.94		\$34.85		
14	AUGUST	\$69.26		\$31.25		
15	SEPTEMBER	\$76.36		\$32.57		
16	OCTOBER	\$81.28		\$31.38		
17	NOVEMBER	\$85.35		\$32.59		
18	DECEMBER	\$89.52		\$34.35		
19						
20	TOTAL	\$470.71		\$196.99		\$667.70
21						
22						\$1,253.32

2024

	A	B	C	D
1	MONTH	CR #3 8971	CV 8963	
2				
3	JANUARY	\$91.70	\$32.21	
4	FEBRUARY	\$89.25	\$32.81	
5	MARCH	\$94.54	\$37.41	
6	APRIL	\$87.32	\$34.85	
7	MAY	\$94.82	\$40.98	
8	JUNE	stopped settling interest to county		
9				
10				
11				
12				
13				
14				
15				
16	TOTAL	\$457.63	\$178.26	\$635.89

From: Circuit Clerk <circuitclerk@lauderdalecounty.org>
Sent: Thursday, June 20, 2024 8:33 AM
Subject: Order for Bank Interest
Attachments: Order Clerk Interest.pdf

CAUTION! External Content. Please use caution when opening attachments and links. Do not provide your username and password if requested.

From: Janette Nolan <jnolan@marioncountymys.gov>
Sent: Wednesday, June 19, 2024 1:18 PM
To: Circuit Clerk <circuitclerk@lauderdalecounty.org>
Subject: Order for Bank Interest

DJ – Carolyn asked me to forward to you to send out to the Association. At our May workshop, Chuck (CPA) told us how he and Daryl had spoken with Tom at the Auditor’s office and confirmed that we are entitled to the interest on the bank accounts we manage. When I spoke with Tom, he restated that he didn’t feel an order signed by the Judge was necessary, but it would be best we have an order to cover us since the Judge may not want us collecting interest on every account. Like my Judge, wants me to continue to send interest from the Intervention Court account to them. I have attached an order that Daryl originally drafted that was signed by my Judge yesterday.

Sincerely,

*Janette Nolan
Marion County Circuit Clerk
250 Broad St., Suite 1
Columbia, MS 39429
601-736-8246*



THOMSON REUTERS

WESTLAW Mississippi Attorney General Opinions

John G. Compton, Esq.

Office of the Attorney General
February 8, 2024

2024 WL 887789 (Miss.A.G.)

Office of the Attorney General

State of Mississippi
*1 February 8, 2024**Re: Payment of Past Due Taxes**

*1 John G. Compton, Esq.

*1 Attorney

*1 Lauderdale County School District

*1 Post Office Box 845

*1 Meridian, Mississippi 39302-0845

Dear Mr. Compton:

*1 The Office of the Attorney General has received your request for an official opinion.

Background

*1 According to your request, it was recently discovered that the **Lauderdale County** Board of Supervisors ("Board of Supervisors") failed to pay the **Lauderdale County** School District ("School District") its share of the privilege taxes, railcar taxes, or rental car taxes.

Questions Presented

*1 1. How many years can the School District seek to be paid?

*1 2. Is there an applicable statute of limitation that would apply to seeking payment of past taxes due the School District from the Board of Supervisors?

Brief Response

*1 While this office cannot make the factual determination that the School District is owed prior year's taxes, if such determination is made by the local governing authorities, there is no limit on the number of years the School District may seek to be paid because Section 104 of the Mississippi Constitution provides that statutes of limitation shall not run against the State or political subdivisions.

Applicable Law and Discussion

*1 Opinions of this office are limited to prospective questions of state law. Miss. Code Ann. § 7-5-25. This office cannot not validate or invalidate past actions. Therefore, to the extent that your question deals with past action, we must decline to respond with an official opinion, and we offer no opinion on prior payments or the validity or amount of the alleged taxes owed. This opinion should not be interpreted as a determination that taxes are owed by **Lauderdale County** to the School District. By way of information only, we offer the following.

*1 We understand that the taxes you reference in your request are property carrier and bus taxes, railcar taxes, and motor vehicle rental sales taxes, which are levied or assessed in accordance with Sections 27-19-11, 27-35-501, and 27-65-231 of the Mississippi Code, respectively. The property carrier and bus taxes and motor vehicle rental sales taxes are to be distributed by the **county** in the same manner as ad valorem tax proceeds. Miss. Code Ann. §§ 27-19-11 and 27-65-231(3). The railcar taxes are apportioned between the municipalities and taxing districts within the **county** based on the number of miles of railroad within the municipalities taxing districts. Miss. Code Ann. § 27-35-519.

*1 Whether the School District is owed prior years' taxes by the **County** or the specific number of years the School District may be paid are questions of fact to be made by the local governing authorities, subject to judicial review, and are outside the scope of an official opinion. However, if the local governing authorities do, in fact, determine that the School District is owed prior years' taxes, Section 104 of the Mississippi Constitution provides that "[s]tatutes of limitation in civil causes shall not run against the State, or any subdivision or municipal corporation thereof." See also Miss. Code Ann. § 15-1-51 (stating same). The Mississippi Supreme Court has held that Section 104 applies even in a suit between governmental entities. *Jones Cnty. Sch. Dist. v. Dep't of Revenue*, 111 So. 3d 588, 607 (Miss. 2013). Therefore, if a determination is made that taxes are owed, there is no limit to the number of years the School District can seek to be paid.

*2 We also draw your attention to Section 37-57-108 as discussed in MS AG Op., *Compton* (June 21, 2019) (opining that any amount of delinquent taxes received in the current tax year by the school district that exceeds the increase limitation described in Section 37-57-107 must be deposited into a special account and calculated into the budget for the succeeding fiscal year). You may wish to contact the Technical Assistance Division of the Office of the State Auditor for any questions regarding the applicability of this statute to your situation.

*2 If this office may be of any further assistance to you, please do not hesitate to contact us.
Sincerely,

*2 Lynn Fitch
*2 Attorney General
*2 By: Beebe Garrard
*2 Special Assistant Attorney General

2024 WL 887789 (Miss.A.G.)

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Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

February 7, 2024

Mike Espy, Esq.
Attorney, Madison County Board of Supervisors
Post Office Box 608
Canton, Mississippi 39046

Re: Statutes of Limitation and Governmental Entities

Dear Mr. Espy:

The Office of the Attorney General has received your request for an official opinion.

OFFICIAL OPINION

Background

According to your request, it has come to the attention of the Madison County Board of Supervisors that the county tax collector failed to remit certain ad valorem tax commissions to the city of Canton for the fiscal years 2008-2022. These remittances were required under three separate interlocal agreements. Citing Mississippi Code Annotated Section 15-1-49, which provides a three-year statute of limitation for all actions for which no other period of limitation is prescribed, and Section 104 of the Mississippi Constitution, which provides that statutes of limitation in civil cases do not run against the state or political subdivisions, you seek clarity on the applicable statute of limitation.

Question Presented

Is the Madison County Board of Supervisors prohibited by Section 15-1-49, or any other applicable statute, from paying a claim dating back to 2008 for taxes owed to the city of Canton pursuant to an interlocal agreement?

Brief Response

Pursuant to Section 104 of the Mississippi Constitution, statutes of limitation do not run against the state or political subdivisions. Thus, the three-year statute of limitation in Section 15-1-49 for actions for which no other period of limitation is prescribed would not apply to a claim by a municipality against a county.

Mike Espy, Esq.
February 7, 2024
Page 2

Applicable Law and Discussion

As an initial matter, opinions of this office are limited to prospective questions of state law. Miss. Code Ann. § 7-5-25. This office cannot validate or invalidate past actions. Therefore, we offer no opinion on prior payments or the validity or amount of the alleged taxes owed by Madison County to the city of Canton. This opinion is limited to the applicability of the three-year statute of limitation to claims between governmental entities.

Section 104 of the Mississippi Constitution provides: "Statutes of limitation in civil causes shall not run against the State, or any subdivision or municipal corporation thereof." *See also* Miss. Code Ann. § 15-1-51. The Mississippi Supreme Court has held that Section 104 applies even in a suit between governmental entities. *Jones Cnty. Sch. Dist. v. Dep't of Revenue*, 111 So. 3d 588, 607 (Miss. 2013). Accordingly, it is the opinion of this office that the three-year statute of limitation in Section 15-1-49 for actions for which no other period of limitation is prescribed would not apply to a claim by a municipality against a county for taxes collected pursuant to an interlocal agreement.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Beebe Garrard

Beebe Garrard
Special Assistant Attorney General

WESTLAW Mississippi Attorney General Opinions

Honorable Jimmy W. Jones

Office of the Attorney General
September 12, 1994

1994 WL 549341 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

*1

Opinion No. 94-0478

*1 September 12, 1994

Re: Interest on Accounts

*1 Honorable Jimmy W. Jones
*1 Chancery Clerk, Franklin County
*1 P. O. Box 297
*1 Meadville, MS 39653

Dear Mr. Jones:

*1 Attorney General Mike Moore has received your letter and has assigned it to me for reply. In your letter you state:

*1 A question has arisen concerning interest earned on funds deposited by Chancery and Circuit Clerks after the provision of Mississippi Code Section 9-1-43 becomes effective. In order to clarify this matter, request your opinion on the following:

*1 1. Is interest earned on fees collected by Chancery and Circuit Clerks for services performed exempt from the cap when considering the limits on compensation under the above statute.

*1 2. Is it required that these fees be deposited in an interest bearing account.

*1 Section 9-1-43 of the Mississippi Code of 1972, commonly called the salary cap bill, will not be effective until January 1, 1996 (assuming preclearance under the 1965 Civil Rights Act). For the purposes of this opinion we will assume that the statute is in effect and controlling. The statute, in subsection one, states that, after deductions for allowable expenses,

*1 [N]o chancery clerk or circuit clerk of any county in the state shall receive fees as compensation for his services in excess of Seventy-five Thousand Six Hundred Dollars (\$75,600.00), which is the annual salary of the Governor in Fiscal Year 1993 fixed in Section 25-3-31. All such fees received by chancery or circuit clerks that are in excess of the Governor's annual salary shall be deposited by such clerk into the county general fund on or before April 15 for the preceding calendar year.

*1 The statute goes on to say in subsection four:

*1 The following monies paid to the chancery clerk shall be subject to the salary limitation prescribed under subsection (1); (a) all fees required by law to be collected for the filing, recording or abstracting of any bill, petition, pleading or decree in any civil case in chancery; (b) all fees collected for land recordings, charters, notary bonds, certification of decrees and copies of any documents; (c) all land redemption and mineral documentary stamp commissions; and (d) any other monies or commissions from private or governmental sources for statutory functions which are not to be held by the court in a trust capacity. Such fees as shall exceed the salary limitations shall be maintained in a bank account in the county depository and accounted for separately from those monies paid into the chancery court clerk clearing account.

*1 Fees charged for services of a chancery clerk are commonly placed into an interest bearing account. Your first question is whether the interest earned on such fees are subject to the cap. The description of the monies subject to the cap is precise and not vague. Nothing in the description of such monies in subsection four of 9-1-43 of the Mississippi Code of 1972 describes interest earned from a bank on an account. Therefore, it is our opinion that interest accrued on fees placed into a bank account are not subject to the salary limitation of section 9-1-43 of the Mississippi Code of 1972.

*2 Your second question concerns the necessity of placing such fees into interest bearing accounts. First we examine section 27-105-371 of the Mississippi Code of 1972 which states in part:

*2 All county officials who receive funds under the authority of their office shall deposit such funds into a county depository.

*2 The fees in question are subject to this provision. All fees received have to be placed into a county depository. Section 27-105-303 of the Mississippi Code of 1972 states of county depositories:

*2 Each financial institution qualifying as such county depository shall not be required to pay interest to the county for the privilege of holding the deposits unless federal law permits the payment of interest on such deposits, in which case the maximum permitted interest rate shall be paid on such deposits.

*2 Therefore, the fees collected by the chancery clerks must be placed into a county depository and the depository must pay the maximum interest allowed by law so long as federal law allows the payment of interest on such deposits.

Very Truly Yours,

*2 Mike Moore

*2 Attorney General

*2 By: Larry J. Stroud

*2 Assistant Attorney General

1994 WL 549341 (Miss.A.G.)

END OF DOCUMENT

FILED
MADISON COUNTY

IN THE CIRCUIT COURT OF MADISON COUNTY, MISSISSIPPI

JUN 24 2024

IN RE: INTEREST FROM ACCOUNTS

ANITA WRAY, CIRCUIT CLERK

BY Anita Wray D.C.

ORDER ALLOWING CIRCUIT CLERK INTEREST FROM ACCOUNTS

Came to be heard the matter to authorized Anita Wray, Circuit of Madison County, Mississippi to be allowed the interest from all bank accounts in her custody, unless otherwise stated by the court.

IT IS THEREFORE, ORDERED by the court that Anita Wray, Circuit Clerk for Madison County, Mississippi be and is hereby allowed all interest earned from all bank accounts in her custody for her fee for services of maintaining said accounts unless otherwise stated by the court.

This the 24 day of June, 2024.



Hon. Steve Ratcliff

Circuit Court Judge

304/788