

**OPINION**  
**63-75**

February 11, 1963            (OPINION)

COUNTIES

RE: Delinquent Personal Property Taxes - Collection

Your letter of February 1, 1963, is acknowledged.

You relate that the sheriff and the county commissioners of Stutsman County have requested an opinion of you as to whether or not the county could contract with a private collection agency or concern to collect all out-of-state delinquent personal property taxes which are over one year old. You also relate that the private collection agency would charge fifty percent for the collection services. Further, the collection agency has told you that they have already entered into contracts with some other counties on that basis (fifty percent) and you request an opinion as to the legality of this procedure.

We note that you have pointed out that this procedure would appear to be in direct conflict with the provisions of section 57-22-29 of the North Dakota Century Code, but that it would seem both practical and advantageous to have the private concern make the collection rather than write off the delinquent accounts.

Section 57-22-29 of the North Dakota Century Code provides as follows:

CONTRACT FOR TAX COLLECTION. In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid and uncanceled, whether put into judgment or not, the board of county commissioners may contract with the sheriff of the county, or with any elector of the county, to pay a percentage of such delinquent personal property taxes, not exceeding ten percent of the amount collected as compensation for collecting the same, in lieu of, or in addition to, the compensation provided by law for said sheriff. When a contract is made with any person other than the sheriff, the contract may cover all or only certain taxing districts within the county, and contracts may be made with different collectors for different portion of the county. No collection fee shall be paid to the sheriff or any other collector for any moneys deducted from warrants under the provisions of section 57-22-26."

The underlined language in section 57-22-29, above-quoted, appears to clearly set forth the limitations as to the percentage which can be paid to a collector, and further requiring that the collector be an elector of the county wherein the collections contract is entered into. It would appear to prohibit any higher percentage being paid to a collector.

Further, we note that section 57-22-32 provides special procedures for collection when a tax debtor moves from one county to another. No provision is made, however, in any of the appropriate statutes, which distinguishes instate from out-of-state collections, as the tax is assessed against the person on his personal property located within the state at the time of the assessment.

Therefore, it is the opinion of this office that collection contracts may be entered into with a person who is an elector of the county wherein the contract is made, but that the collection agent is limited to receiving a maximum of ten percent of the amount collected. Your point is well taken that perhaps it would be more practical and advantageous for the county to contract in the manner proposed, however, that is a matter for the legislature to determine.

We are enclosing a copy of a letter written to John Amundson, June 13, 1962, which deals with related matters and should prove helpful in other matters with which you may be concerned.

HELGI JOHANNESON

Attorney General