

SALARY TAX UPON CLERKS TO POSTMASTERS.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

IN ANSWER TO

A resolution of the House of the 12th of February, relative to salary tax upon clerks to postmasters, with the regulations of the department, &c.

FEBRUARY 20, 1867.—Referred to the Committee of Ways and Means and ordered to be printed.

TREASURY DEPARTMENT,
February 15, 1867.

SIR: The Secretary of the Treasury has the honor to acknowledge the receipt of the following resolution of the House of Representatives, viz:

“ FEBRUARY 12, 1867.

Resolved, That the Secretary of the Treasury be, and is hereby, requested to inform this house whether the various postmasters throughout the United States are required to account for and pay a salary tax upon the salaries of clerks employed by them where such salary is not fixed by law, but is paid out of funds furnished by the government; also, that he be requested to furnish a copy of the regulations and circulars of said department, if any such exist, requiring such payment; also, whether any such tax is collected or required to be accounted for from clerks of assessors of internal revenue, and, if any discrimination is made between said two classes of clerks in respect to said tax, why such discrimination is made.”

In obedience thereto he has the honor to submit the following report:

Postmasters' clerks are appointed by postmasters, and take the oaths of office prescribed in the 2d section of the act of July 2, 1862, and in the 2d section of the act of March 3, 1863.

Their salaries are not fixed in amount by law, but from time to time the Postmaster General fixes the amount allotted to each postmaster for clerk hire, under the authority conferred upon him by the ninth section of the act of June 5, 1836, and then the postmaster, as an agent for and in behalf of the United States, determines the salary to be paid to each of his clerks. These salaries are paid by the postmasters, acting as disbursing agents, from United States moneys advanced to them for this purpose, either directly from the Post Office Department in pursuance of appropriations made by law, or from the accruing revenues of their offices, under the instructions of the Postmaster General.

The receipts of such clerks constitute vouchers in the accounts of the postmasters acting as disbursing agents and in the settlements made with them by the Sixth Auditor. In all the foregoing transactions the postmaster acts not as a principal, but as an agent of the United States, and the clerks are not in his private employment, but in the public employment of the United States. Such being the facts, these clerks are subjected to and required to account for and pay the salary tax, imposed by the one hundred and twenty-third section of the internal revenue act of June 30, 1864, as amended by the ninth section of the internal revenue act of July 13, 1866, upon payments for services to persons in the civil employment or service of the United States.

Copies of the regulations under which such salary taxes are withheld and paid into the treasury to the credit of internal revenue collection account are herewith transmitted, marked A, B, and C. Clerks to assessors of internal revenue are appointed by the assessors. Neither law nor regulations require them to take an oath of office, because, as the law at present stands, they are not in the public service of the United States, through the agency of the assessor, but are in the private personal service of the assessor, as a principal, who employs them.

The salaries of such clerks are neither fixed in amount by law, nor are they regulated by any officer of the Treasury Department, except by the assessors by whom they are employed.

The only control exercised by the Treasury Department over the clerk hire of assessors is to prescribe a necessary and reasonable amount which shall not be exceeded in reimbursing the assessors for this item of their expenses.

No money is advanced by the United States for the payment of such salaries, nor do the assessors perform the duties of disbursing agents of the United States in paying their clerks. The entire amount allowed is paid directly to the assessor, and he is not accountable to the United States for its payment to his clerks, for the reason that he has paid them in advance, out of his own funds, and this is a reimbursement to him of such amount as the department decides to be reasonable. No salary tax is therefore collected, or required by the Treasury Department to be accounted for, or paid, on account of payments to assessors' clerks, as the United States pays no such clerks nor has them in its employ or service, and they do not come within the provisions of existing laws imposing such a tax.

Perhaps no better illustration of the difference between the status of postmasters' clerks and that of assessors' clerks can be given than the following: A postmaster became a defaulter, without paying his clerks; his successor received from the Postmaster General a new remittance for paying them; and if, at any time, the clerks in a post office do not receive their salaries, by reason of the death, resignation or removal of a postmaster, the new appointee is authorized by the regulations of the Post Office Department to pay them out of the proceeds of the office; and should there be no funds in his hands belonging to the department, a draft is issued to place money in his hands for that purpose.

If an assessor had not paid his clerks, they would have no legal claim upon the treasury for their salaries. A discrimination is made between postmasters' clerks and assessors' clerks to the extent and for the reasons hereinbefore set forth.

I have the honor to be, very respectfully, your obedient servant,

H. McCULLOCH,

Secretary of the Treasury.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

A.

TREASURY DEPARTMENT, *July 16, 1866.*

Whereas the second section of the act of Congress approved September 2, 1789, entitled "An act to establish the Treasury Department," devolves upon the Secretary of the Treasury the duty of superintending the collection of the revenue, and of deciding on the forms of keeping and stating accounts and making returns; and whereas the third section of the internal revenue act of Congress, approved March 3, 1865, devolves upon the Secretary of the Treasury the duty of making and issuing instructions upon the specific subject of collecting and paying into the treasury all moneys derived from the acts of Congress providing an internal revenue: It is therefore ordered, that hereafter all duties levied by the 123d section of the internal revenue act of Congress, approved June 30, 1864, or any other provision of law or regulations, upon the salary, compensation, or payment for services of each and every officer or person in the service or employment of the United States, shall be collected, returned, and paid into the treasury of the United States, in the following manner, to wit: Every paymaster or disbursing agent, however known or styled, who shall withhold such duties upon payments required to be made by him, shall render a true statement of the amount and details thereof, and shall return said statement with his accounts, as now required by law or regulations. He will, however, make no deposits of the amounts of said statements, but will as at present required by law retain the amount thereof from his disbursements.

In lieu of depositing these amounts by the officer himself, it is hereby made the duty of the First and Second Comptrollers, the Commissioner of Customs, and the Auditor of the Treasury for the Post Office Department, respectively, at the end of each month to properly consolidate the amount of said statements, under each head of appropriation; and from said appropriation to cause to be drawn, by requisition and warrant, (or otherwise, as may be most conducive to the public interests,) the proper amount of money due the United States for such duties under the internal revenue laws, and deposit the same in the treasury of the United States, to the credit of the Treasurer thereof, as a receipt on account of such duties from the parties, and composed of the amounts as specified on a list to be by these accounting officers furnished to accompany the covering warrants; and to furnish also the Commissioner of Internal Revenue with information of the amount thus drawn from each appropriation and deposited on account of such duties; and the record of the covering warrants issued in pursuance of this order should be good and sufficient evidence of the fact of such payment by the parties interested in the settlement of their accounts.

This order to take effect on and after the 1st day of September, 1866, except in cases of disbursing officers or agents upon the Pacific coast of the United States, in which cases, should it become necessary, it will take effect as soon as they can be advised of its provisions; and the aforesaid Comptrollers, Commissioner of Customs, and the Auditor of the Treasury for the Post Office Department, are hereby required to prepare and issue, after having obtained the approval of the Secretary of the Treasury thereon, the requisite instructions to carry this order into effect.

HUGH McCULLOCH,
Secretary of the Treasury.

B.

TREASURY DEPARTMENT, *July 18, 1866.*

SIR: Herewith I transmit, for your information and guidance, a copy of an order of the Secretary of the Treasury, dated July 16, 1866, regulating the

manner of collecting and paying into the treasury internal revenue taxes on salaries.

You will please prepare and submit, for the Secretary's approval, the instructions necessary for carrying this order into effect so far as the officers whose accounts are under your supervision are concerned.

The provisions of this order are so far modified as to the consolidation of these amounts by your office as that the time allowed for so doing will be extended to three months, instead of one, to correspond with your quarterly settlements.

Respectfully, yours,

J. F. HARTLEY,
Assistant Secretary.

Hon. ISAAC N. ARNOLD,
Auditor of the Treasury for Post Office Department.

C.

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST OFFICE DEPARTMENT,

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SIR: An order from the Secretary of the Treasury, under date of July 17, 1866, changes entirely the present system of collecting the revenue tax upon the salaries of postmasters and other employes of the Post Office Department.

Your careful attention is therefore invited to the following regulations, and a strict compliance with the same is earnestly requested:

1. From and after the 1st day of October, 1866, the tax upon the salary or compensation of postmasters and other employes will be charged to the postmaster in the settlement of his quarterly account current.

2. Postmasters will withhold the tax quarterly upon their own salaries and the salaries of such of their employes as are liable to tax, as heretofore instructed; but instead of depositing the amount of such tax, they will include it in the amount due the United States, and pay it over as other revenues of the department.

3. In rendering the quarterly account current, the postmaster will enter the amount of internal revenue tax on the debit side of the account, immediately below Article 24.

4. Printed forms of pay-rolls for clerks, containing a column for amount of internal revenue tax, will be furnished on application to the Post Office Department. Postmasters are requested to obtain these forms and use them in taking receipts from clerks and other employes.

5. At offices where the free-delivery system is in operation, the tax on the carriers' salaries must be deducted as heretofore, and the amount will be charged to the postmaster on his general account.

6. As these regulations go into effect on the 1st day of October next, postmasters are particularly cautioned against making deposits on account of revenue tax for any part of the quarter ending December 31, 1866. The tax for the quarter ending September 30 must be deposited as instructed by Circular No. 8.

Respectfully,

I. N. ARNOLD, *Auditor.*

The following section of the act approved July 13, 1866, provides for the payment on the salaries of persons in the civil, military, or naval service of the United States, when exceeding six hundred dollars per annum, of a tax of five per cent. on the excess above said six hundred dollars.

No deductions whatever are authorized.

SECTION 165. That there shall be levied, collected, and paid on all salaries of officers, or payments for services to *persons* in the civil, military, naval, or other employment or service of the United States, including senators and representatives and delegates in Congress, when exceeding the rate of six hundred dollars per annum, a tax of five per centum on the excess above the said six hundred dollars, and a tax of ten per centum on the excess over five thousand dollars; and it shall be the duty of all paymasters and all disbursing officers under the government of the United States, or persons in the employ thereof, *when making any payment to any officers or persons as aforesaid*, or upon settling and adjusting the accounts of such officers or persons, *to deduct and withhold the aforesaid tax*; and they shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal tax; and the pay-roll, receipts, or account of officers or persons paying such tax as aforesaid shall be made to exhibit the fact of such payment. And it shall be the duty of the several Auditors of the Treasury Department, when auditing the accounts of any paymaster or *disbursing officer*, or any officer withholding his salary from moneys received by him, or when settling or adjusting the accounts of any such officer, to require evidence that the taxes mentioned in this section have been deducted and paid over to the Commissioner of Internal Revenue, or other officer authorized to receive the same: *Provided*, That payments of prize money shall be regarded as income from salaries, and the tax thereon shall be adjusted and collected in like manner: *Provided further*, That this section shall not apply to payments made to mechanics or laborers employed upon public works.

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