

GASOLINE TAX:  
SPECIAL ROAD DISTRICTS:  
COUNTIES:

Counties are not authorized to give a specific percentage or a specific amount of motor fuel tax moneys to a special road district to be expended as such district sees fit.

OPINION NO. 478 (1963)  
OPINION NO. 39 (1964)

February 6, 1964

Honorable Henry Balkenbush  
Prosecuting Attorney  
Osage County  
Linn, Missouri



Dear Mr. Balkenbush:

This is in answer to your letter dated December 18, 1963, in which you request an official opinion from this office. In your letter you state the following:

"Can the County Court of Osage County, Missouri divide the proceeds of gasoline tax money apportioned to Osage County with a Special Road District in Osage County, Missouri when said funds are to be expended for road purposes in a Special Road District."

The answer to your question lies in a discussion of Article IV, Section 30(a), Constitution of Missouri, 1945. As you well know, this constitutional amendment became effective on March 6, 1962. The amendment provides for the imposition of a tax upon fuel used for propelling motor vehicles on our highways. Once the tax has been collected, the net proceeds of the tax, after deducting costs of collection, apportionment and making refunds, is apportioned between the counties, cities and the state. That portion designated for distribution to the counties is governed by the following language.

"Five per cent of the remaining net proceeds shall be deposited in a special trust fund known as the 'County Aid Road Trust Fund' which shall be credited to the various counties of the state on the following

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basis: One-half on the ratio that the county road mileage of each county bears to the county road mileage of the entire state as determined by the last available report of the state highway commission and one-half on the ratio that the rural land valuation of each county bears to the rural land valuation of the entire state as determined by the last available report of the state tax commission, except that county road mileage in incorporated villages, towns or cities and the land valuation in incorporated villages, towns or cities shall be excluded in such determination, except that, if the assessed valuation of rural lands in any county is less than five million dollars, the county shall be treated as having an assessed valuation of five million dollars. The funds credited to each county shall be used by the county solely for the construction, reconstruction, maintenance and repairs of roads, bridges and highways, and subject to such other provisions and restrictions as provided by law. In the absence of other controls provided by law, the state highway commission shall prescribe policy, rules and requirement for the expenditure of these funds by counties, including, among other things, highway commission approval of plans for projects on which the funds are to be used. In counties having the township form of county organization, the funds credited to such counties shall be expended solely under the control and supervision of the County Court, and shall not be expended by the various townships located within such counties. 'Rural land' as used in this section shall mean all land located within any county, except land in incorporated villages, towns, or cities." Article IV, Section 30(a), Constitution of Missouri, 1945.

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Your inquiry is whether a county can give a specific portion or a specific amount of motor fuel tax money received by such county to a special road district to be spent by such special road district as the board of such special road district sees fit.

It is clear from the provisions of Section 30(a), Article IV of the Constitution, supra, that special road districts are not allocated any portion of the tax moneys raised by the motor fuel tax.

Under such constitutional provision, the money so allocated to a county can be expended by such county solely for the construction, reconstruction, maintenance and repair of roads, bridges and highways and subject to other provisions and restrictions as provided by law. We do not find any authorization for counties to give a specific percentage or a specific amount of the money received by such counties from the motor fuel tax to a special road district to be expended by such special road district as the board of such special road district sees fit.

#### CONCLUSION

It is the opinion of this office that counties are not authorized to give a specific percentage or a specific amount of the moneys received by such counties from the motor fuel tax imposed by Section 30(a), Article IV of the Constitution, to a special road district to be expended by such special road district as the board of such special road district sees fit.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Eugene G. Bushmann.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

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