

**OPINION NO. 68-062****Syllabus:**

A county auditor may hold office as a committeeman for a political party.

---

**To: John E. Zimmerman, Defiance County Pros. Atty., Defiance, Ohio**  
**By: William B. Saxbe, Attorney General, April 1, 1968**

I have before me your request for my opinion on the following question:

May a county auditor hold office as committeeman for a political party?

Amended Section 5715.51 of the Ohio Revised Code, effective December 11, 1967, reads as follows:

"No member of the board of tax appeals, or any assistant, expert, clerk, or other employee of a county board of revision or the department of taxation shall hold any position on or under any committee of a political party, or subscribe or pay any money or other thing of value to any person or organization for the purpose of promoting, defeating, or otherwise influencing any legislation, or circulate any initiative or referendum petition. Whoever violates this section shall be removed from his office or employment."

If the county auditor is an employee of the Department of Taxation, as your letter suggests, then the specific prohibition of the statute is applicable. However, the distinction between an employee and a public official, which is discussed in The State, ex rel. Milburn v. Pethel, 153 Ohio St. 1, is the governing test in determining whether the position one holds is that of employee or public official. Branch One of the syllabus in the Milburn case, supra, states as follows:

"1. A public officer, as distinguished from an employee, is one who is invested by law with a portion of the sovereignty of the state and who is authorized to exercise functions

either of an executive, legislative or judicial character."

A county auditor is a public official and it is my opinion that although he may perform services for the Department of Taxation for the purpose of Section 5715.51, supra, he is not an employee of the Department of Taxation and therefore the services he performs for the Department of Taxation do not disqualify him from being committeeman for a political party. Further, the county auditor is a member of the county board of revision but according to the distinction made between public official and employee in the Milburn case, supra, he is not an employee of the county board of revision.

The stated purpose of House Bill No. 391, effective December 11, 1967, which amended Section 5715.51, supra, is "relative to limiting the prohibitions against political activity by certain officials." The legislature clearly indicated its intention that members of boards of revision are among the officials who were to be allowed to serve on a political committee while at the same time holding public office.

Therefore, it is my opinion and you are hereby advised that a county auditor may hold office as a committeeman for a political party.