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## EMPLOYEE, STATE—DEDUCTIONS FROM SALARY—ONLY UPON STATUTORY AUTHORITY—CREDIT UNION DEDUCTION NOT PERMITTED OF THE AUDITOR OF STATE.

## SYLLABUS:

1. The auditor of state may make deductions from the salary of a state employee *only* where such action is specifically authorized by statute.
2. There is no legal authority whereby the auditor of state may deduct a specified amount from a state employee's salary and pay such amount to a credit union.

Columbus, Ohio, August 19, 1958

Hon. James A. Rhodes, Auditor of State  
State House, Columbus, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

“Where an employee of the state, by a written memorandum, voluntarily authorizes the Auditor of State to deduct a specified amount from said employee's salary or wages and to pay such amount to a credit union, does the Auditor of State have any authority, under the laws of this state, to make such salary deduction and payment?”

Your inquiry is governed by the well-established principle of law set forth in 32 Ohio Jurisprudence 933, as followed:

“\* \* \* As a general rule, public officers have only such powers as are expressly delegated them by statute, and such as are necessarily implied from those so delegated. \* \* \*”

The application of this principle, applied to like inquiries both by myself and by my predecessors in office, is fully demonstrated in Opinion No. 642, Opinions of the Attorney General for 1957, p. 216. Two questions were there presented. First, whether the auditor of state has authority to make a deduction from the salary of each agricultural extension service employee of Ohio State University for federal retirement purposes, and second, whether the auditor of state has authority to deduct insurance premiums from the salaries of said employees who request such action?

The first question was answered negatively because of the absence of any statutory authority permitting the deduction; the second question, however, was answered in the affirmative on the basis of Section 3917.04, Revised Code, which explicitly authorizes the auditor of state to make such deductions.

In Opinion No. 2592, Opinions of the Attorney General for 1948, p. 12, it was concluded, on the basis of the above principle, that the provisions of an income tax ordinance which imposes on employers the duty of collecting at the source the tax therein provided for and paying the same to the city are without operative effect so far as concerns the auditor of state. The same result, in a similar fact situation, was reached in Opinion 835, Opinions of the Attorney General for 1946, p. 234, on the theory that a command to a superior power has only the force of a request and thus no legal duty is thereby established.

Chapter 1733., Revised Code, provides for the creation and regulation of credit unions and Chapter 115., Revised Code, sets forth the authority and duties of the auditor of state. In my examination of the provisions of these chapters, I have been unable to find any authority, direct or otherwise, permitting the contemplated deductions and therefore must answer your question negatively.

Accordingly, and in specific answer to your question, it is my opinion, and you are so advised, as follows :

1. The auditor of state may make deductions from the salary of a state employee *only* where such action is specifically authorized by statute.
2. There is no legal authority whereby the auditor of state may deduct a specified amount from a state employee's salary and pay such amount to a credit union.

Respectfully,  
WILLIAM SAXBE  
Attorney General