



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

February 7, 2024

Mike Espy, Esq.
Attorney, Madison County Board of Supervisors
Post Office Box 608
Canton, Mississippi 39046

Re: Statutes of Limitation and Governmental Entities

Dear Mr. Espy:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, it has come to the attention of the Madison County Board of Supervisors that the county tax collector failed to remit certain ad valorem tax commissions to the city of Canton for the fiscal years 2008-2022. These remittances were required under three separate interlocal agreements. Citing Mississippi Code Annotated Section 15-1-49, which provides a three-year statute of limitation for all actions for which no other period of limitation is prescribed, and Section 104 of the Mississippi Constitution, which provides that statutes of limitation in civil cases do not run against the state or political subdivisions, you seek clarity on the applicable statute of limitation.

Question Presented

Is the Madison County Board of Supervisors prohibited by Section 15-1-49, or any other applicable statute, from paying a claim dating back to 2008 for taxes owed to the city of Canton pursuant to an interlocal agreement?

Brief Response

Pursuant to Section 104 of the Mississippi Constitution, statutes of limitation do not run against the state or political subdivisions. Thus, the three-year statute of limitation in Section 15-1-49 for actions for which no other period of limitation is prescribed would not apply to a claim by a municipality against a county.

Applicable Law and Discussion

As an initial matter, opinions of this office are limited to prospective questions of state law. Miss. Code Ann. § 7-5-25. This office cannot validate or invalidate past actions. Therefore, we offer no opinion on prior payments or the validity or amount of the alleged taxes owed by Madison County to the city of Canton. This opinion is limited to the applicability of the three-year statute of limitation to claims between governmental entities.

Section 104 of the Mississippi Constitution provides: “Statutes of limitation in civil causes shall not run against the State, or any subdivision or municipal corporation thereof.” *See also* Miss. Code Ann. § 15-1-51. The Mississippi Supreme Court has held that Section 104 applies even in a suit between governmental entities. *Jones Cnty. Sch. Dist. v. Dep’t of Revenue*, 111 So. 3d 588, 607 (Miss. 2013). Accordingly, it is the opinion of this office that the three-year statute of limitation in Section 15-1-49 for actions for which no other period of limitation is prescribed would not apply to a claim by a municipality against a county for taxes collected pursuant to an interlocal agreement.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General