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62706

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FILE NO. S-564

FEEES AND SALARIES:
Tax Objection Fee

Honorable Robert J. Bier
State's Attorney
Adams County
County Building
Quincy, Illinois 62301

Dear Mr. Bier:

I have your recent letter wherein you state:

"Our office has been requested by a Circuit Clerk of Adams County to advise them of a filing fee under Chapter 53, Paragraph 31 (V).

A tax objection has been filed in Adams County which states for tax objections on behalf of Six Hundred Twenty-Four (624) tax payers named therein. As you will note, the Statute is unclear in regard to the filing case and the Clerk's question is whether he should start a Five Dollar (\$5.00) filing fee to each objector named in the tax objection complaint or whether the total fee for the entire objection of Six Hundred Twenty-

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Four (624) tax payers should be Five Dollars (\$5.00). The difference in the filing fee is in excess of Three Thousand Dollars (\$3,000). Research has not revealed any case in this area nor any committee comments. Your opinion on the meaning of this section at an earlier date would be appreciated."

Section 14 (V) of "An Act concerning fees and salaries, and to classify the several counties of this State with reference thereto," (Ill. Rev. Stat. 1972, Supp., ch. 53, par. 31) provides:

"The fees of the clerk of the circuit court, in counties of the first and second class, shall be paid in advance, except as herein provided, and shall be as follows:

* * *

(V) For each paper containing one or more Tax Objections, whenever filed \$5 "

In The People v. Campbell, 204 Ill. App. 226, the court answered a similar question to that which you have asked. In Campbell, supra, plaintiffs in error, prepared objections to the application of the County Collector for a judgment and order of sale of certain land for failure to pay the general taxes for 1914. The objections were set out in one paper or document. The document was presented to the

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County Clerk for filing and a Three Dollar appearance fee was tendered. The Clerk refused to accept and file the document until an appearance fee of Three Dollars for each objector was paid.

The Clerk based his demand upon a rule of the County court which stated that a separate appearance fee should be paid by every property owner objecting to the sale of his property on application for judgment by the County Collector. The objections were sustained and the plaintiffs in error moved for a refund of \$105, said sum equal to a Three Dollar appearance fee for each objector. That motion was denied. The court in reversing the decision as to the refund of \$105 commented upon the fact that decisions of The Illinois Supreme Court held that it was proper procedure for several landowners to join in one suit for filing tax objections where the objections are identical. People v. Keener, 194 Ill. 16; People v. Welch, 252 Ill. 167.

The court went on to say that the decisions of the Supreme Court in Keener, supra, was authority for plaintiffs in error to join in filing their objections

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and they were thus entitled to file them upon the payment of a single appearance fee.

Tax objections are in the nature of a pleading. (Buck v. People ex rel. Swigert, 78 Ill. 560, 32 I.L.P. Rev., sec. 316.) I note that other provisions of section 14 of "An Act concerning fees and salaries * * *", supra, require filing fees based upon the pleading rather than the number of parties involved in the litigation. This appears to be the general scheme throughout section 14, supra, and is thus evidence of the legislative intent in its enactment.

It is a cardinal rule of statutory construction that a statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute. (Lincoln Nat. Life Ins. Co. v. McCarthy, 10 Ill. 2d, 489.) As the intent of the legislature was to provide for a filing fee based upon the pleading, rather than the parties involved in that pleading, I am of the opinion, that the Circuit Clerk may not charge a filing fee to each tax objector named in the tax objection complaint. It is apparent that the filing fee can be charged only for each

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paper or document filed, rather than the number of parties
to that document.

Very truly yours,

A T T O R N E Y G E N E R A L