Since the fees provided for by section 13 (a) of chapter 117 of the Acts of 1937 are for specific additional services required by the Gross Income Tax Act and rendered, I am of the opinion that the respective officers are entitled to retain the prescribed fees personally.

See:
Official Opinions of the Attorney General, 1938, 303-309;
Official Opinions of the Attorney General, 1894-1896, pp. 4-5.

HISTORICAL BUREAU: Public records, whether printed tariffs and rate schedules received by Public Service Commission constitute.

September 20, 1939.

Hon. Christopher B. Coleman,
Director of Historical Bureau,
State Library,
140 N. Senate Avenue,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your request of September 18, 1939, which reads as follows:

"An opinion is requested as to whether printed tariffs or rate schedules received by the Public Service Commission from the railroads, interurbans, et cetera, should be considered public records under the definition in section 9 of the Act approved March, 1935 (Acts 1935) chapter 219, p. 1037."

Section 9 is as follows:

"The term ‘public records’ as used in this Act means any written or printed book or paper or document or map or drawing which is the property of the State, not including any county, city, town, school corporation, or political subdivision thereof, and in or on which any entry has been made or is required to be made by law, or which any officer or employee of the State has received or is required to receive for filing."
The books and papers containing tariffs or classification of freight and other like information in the files of the Public Service Commission have been filed by carriers and utilities pursuant to the requirements of State laws. They are open to public inspection. The commission is required on request to make or furnish certified copies which are admitted, the same as originals, in court proceedings. It is a violation of law for a railroad or other carrier to depart from the published tariff rates in effect and on file with the commission.

The federal law declares such documents on file with the Interstate Commerce Commission to be public records and provision is made for their preservation for a certain definite period depending on the exact nature of the document. Even when such documents on file with the state commission have been superseded by a later issue, they may have an importance and are referred to in the settlement of controversies such as a waiver of freight charges or a cancellation claim in which a citizen may be a party.

The Act concerning public records which creates the Commission of Public Records and prescribes its duties, by section 2 authorizes the commission to distinguish between documents of current value, and those of historical value, and those which have ceased to have either official or historical value and can be destroyed.

Prior to the enactment of the Act concerning public records, the officials of each department of the State were left to their own judgment as to the preservation or destruction of documents. The result was the destruction of some documents of value and the preservation of some worthless material. The law was intended to correct this and put the responsibility of preservation or destruction on a commission which would keep informed on the necessity of preserving worthwhile documents and the removal or destruction of worthless papers.

In my opinion the last expression in section 9 of the statute which provides that any book or paper or document which a State officer or employee "has received or is required to receive for filing," is a "public record," includes printed tariffs and such documents received by the Public Service Commission as your request refers to and they are public records.