



STATE OF KANSAS

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CURT T. SCHNEIDER  
*Attorney General*

August 18, 1975

ATTORNEY GENERAL OPINION NO. 336

Robert I. Nicholson  
County Attorney  
Miami County Courthouse  
Paola, Kansas 66071

Re: Sales Tax on Mobile Homes, previously  
assessed as real estate. K.S.A. 79-319, 320;  
1974 Supp. 79-3603 (o)

Synopsis: Both an ad valorem tax and an excise tax may be  
collected with reference to the same property in  
the same year. There are two different incidents  
of taxation.

Dear Mr. Nicholson:

Your letter of July 22, 1975 asks, if a mobile home is at-  
tached to real estate permanently and assessed as real estate  
in a particular year, but is then detached and sold as personal  
property that same year, can a sales tax also be imposed on the  
sale of that mobile home?

Our answer is yes, both taxes must be imposed.

A distinction must be made between ad valorem and excise  
taxes. No property, real or personal may be doubly assessed  
in the same year for ad valorem taxation. A mobile home could  
not be assessed as real estate, and later the same year assessed  
as personal property, both for ad valorem purposes.

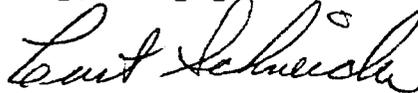
Sales tax is not an ad valorem tax, it is an excise tax. It  
is a tax on the "privilege" of selling personal property at retail.  
The incident of taxation occurs when the sale occurs. The  
incident of ad valorem taxation is ownership on January 1. K.S.A.  
79-301, K.S.A. 79-1439, or by bringing personal property into  
the county prior to July 1. K.S.A. 79-316.

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K.S.A. 1974 Supp. 79-3604 provides that the County Treasurer shall collect the sales tax every time an application is made for a certificate of registration or ownership of a mobile home. This can be more than once a year. Even though the ad valorem tax on that mobile home can be collected annually only once, a sales tax can be collected each time the mobile home is sold and title transferred. It does not matter that the mobile home has been assessed and taxed for ad valorem purposes, either as real or personal property. It true that, at the time of registering a mobile home, proof must be given the County Treasurer of the payment of ad valorem taxes. K.S.A. 1974 Supp. 8-173. In this case proof of assessment as real estate would satisfy this statute.

It is not unusual that improvements on real estate are removed before taxes are paid, and become personal property. Kansas statutes K.S.A. 79-319, 320 provide a procedure to collect delinquent ad valorem taxes, in such a case.

Very truly yours,



CURT T. SCHNEIDER  
ATTORNEY GENERAL

CTS:CJM:gw