



STATE OF KANSAS

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May 27, 1986

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ATTORNEY GENERAL OPINION NO. 86- 75

The Honorable Dennis J. Spaniol
State Representative, Ninety-Fourth District
P.O. Box 12553
Wichita, Kansas 67277

Re: Taxation--Property Valuation, Equalizing
Assessments, Appraisers and Assessment of
Property--Escaped Personal Property ..

Taxation--Collection and Cancellation of Taxes--
Time for Payment of Personal Property Taxes

Synopsis: K.S.A. 1985 Supp. 79-1475 provides that "escaped taxes" on personal property are to be collected in the same manner as prescribed by law for the collection of other taxes levied on property. K.S.A. 79-1804 and 79-2004a set forth the schedule for collection of personal property taxes. Accordingly, escaped taxes on personal property are due on November 1 of the year in which they were placed on the tax roles (unless they are so placed in November or December, in which case they are due in November of the following year) and the taxpayer must pay those taxes according to the time schedule provided in K.S.A. 79-2004a. Cited herein: K.S.A. 1985 Supp. 79-1427a; 79-1475; K.S.A. 79-1803; 79-1804; 79-2001; 79-2004a; K.S.A. 1985 Supp. 79-1017.

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Dear Representative Spaniol:

You request our opinion regarding the time for payment of personal property taxes. Specifically, you inquire whether the enactment of K.S.A. 1985 Supp. 79-1427a had any effect on the regular payment schedule contained in K.S.A. 79-1804 and 79-2004a as far as "escaped" taxes are concerned.

K.S.A. 1985 Supp. 79-1427a provides, in part, as follows:

"(a) If, after one year from the date prescribed by K.S.A. 79-306, and amendments thereto, for the listing of tangible personal property, the county appraiser discovers that any tangible personal property which was subject to taxation in any year or years within four years next preceding has not been listed or has been underreported for whatever reason, such property shall be deemed to have escaped taxation. In the case of property which has not been listed, it shall be the duty of the county appraiser to list and appraise such property and add 100% thereto as a penalty for escaping taxation for each such year during which such property was not listed, and it shall be designated on the appraisal roll as 'escaped appraisal' for each such preceding year or years. In the case of property which has been listed but underreported, it shall be the duty of the county appraiser to list and appraise the underreported portion of such property and add 100% thereto as a penalty for escaping taxation for each such year during which such property was underreported, and it shall be designated on the appraisal roll as 'escaped appraisal' for each such preceding year or years." (Emphasis added.)

Thus, the statute in question provides the penalty to be imposed for failure to list or underreporting personal property for purposes of taxation. This statute does not,

however, provide any special method for collecting these "escaped" taxes.

K.S.A. 1985 Supp. 79-1475, on the other hand, does provide a method by which escaped taxes are to be collected:

"Whenever the county appraiser discovers that any property subject to taxation has been omitted from the tax rolls, such property shall immediately be listed and valued by the appraiser, and returned to the county clerk. The county clerk, upon receipt of the valuation of such property, shall compute the amount of tax due based upon the mill levy for the year in which such tax should have been levied, and shall certify such amount to the county treasurer as an added or escaped appraisal. The county treasurer shall proceed to collect and distribute such tax in the same manner as prescribed by law for the collection and distribution of other taxes levied on property."
(Emphasis added.)

The manner prescribed by law for the collection of property taxes is set forth at K.S.A. 79-2001 et seq. K.S.A. 79-1804 states that "[a]ll taxes shall be due on the first day of November of each year." K.S.A. 79-2004a then allows the taxpayer the option of paying

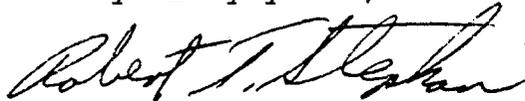
"the full amount thereof on or before December 20 of each year, or 1/2 thereof on or before December 20 and the remaining 1/2 thereof on or before June 20 next ensuing, except that all unpaid personal property taxes of the preceding year must first be paid. . . ."

Therefore, though all unpaid personal property taxes of previous years must be paid before K.S.A. 79-2004a may be implemented, the escaped personal property taxes are not due until November 1 of the year in which they appear on the tax rolls (see K.S.A. 79-1803 and Attorney General Opinion No. 81-187) and need not be paid until December 20 of that year. K.S.A. 1985 Supp. 79-2017 then provides for the method of collecting delinquent personal property taxes, i.e. those

which appeared on the tax rolls of a previous year, were assessed, but were not paid in accordance with K.S.A. 79-2004a.

In conclusion, K.S.A. 1985 Supp. 79-1475 provides that "escaped taxes" are to be collected in the same manner as prescribed by law for the collection of other taxes levied on property. K.S.A. 79-1804 and 79-2004a set forth the schedule for collection of personal property taxes. Accordingly, escaped taxes are due on November 1 of the year in which they were placed on the tax roles (unless they are so placed in November or December, in which case they are due in November of the following year) and the taxpayer must pay those taxes according to the time schedule provided in K.S.A. 79-2004a.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

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