



STATE OF KANSAS

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July 7, 1986

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ATTORNEY GENERAL OPINION NO. 86- 97

Bruce Flipse
Thomas County Special Prosecutor-
County Attorney Pro Tem
P.O. Box 554
Colby, Kansas 67701

Re: Automobiles and Other Vehicles -- Registration of
Vehicles -- Requirements for Acceptance of
Registration Application

Synopsis: K.S.A. 1985 Supp. 8-173 requires the person making an application for registration of a vehicle to show proof that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle. When personal property is held jointly, both persons are liable for taxes levied thereon. Accordingly, under K.S.A. 1985 Supp. 8-173, a county treasurer may not accept an application for registration of a jointly-owned motor vehicle from either owner until the unpaid taxes on the vehicle and all other personal property taxes assessed to the owners are paid in full. Furthermore, a county treasurer may accept a motor vehicle registration application from a person whose spouse has died, leaving property in the estate upon which unpaid taxes are due, provided the applicant's taxes are paid for the preceding year and the applicant has sole ownership of the vehicle. Cited herein: K.S.A. 1985 Supp. 8-173.

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Dear Mr. Flipse:

As Special Prosecutor-County Attorney Pro Tem for Thomas County, you request our opinion on two issues regarding the requirements for acceptance of a vehicle registration application by the county treasurer. You first inquire as to whether it is mandatory for both owners of a jointly-held motor vehicle to have their taxes paid in full, prior to the county treasurer accepting an application for registration of the vehicle from either person.

K.S.A. 1985 Supp. 8-173 deals with the registration of vehicles, and states in part:

"An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

"(a) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before June 21 such receipt need show payment of only one-half of the preceding year's tax;" (Emphasis added.)

The answer to your question necessarily lies in determining who owns title to the property upon which the tax remains unpaid. K.S.A. 1985 Supp. 8-173 requires the person making an application for registration of a vehicle to show proof that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle. Therefore, under the provisions of the statute, a county treasurer may accept a vehicle registration application from any individual who can show that all his or her personal property taxes have been paid.

You describe a situation where a vehicle is owned by two people and the title is listed as "or." By definition, the property is held jointly by two people. It is our opinion that when personal property is held jointly, both persons are liable for taxes levied thereon. Accordingly, until the taxes

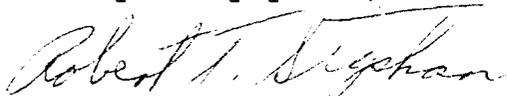
are paid in full, both persons remain liable and the county treasurer may not accept the application for motor vehicle registration from either party. (See Attorney General Opinion No. 74-106.)

Your second inquiry asks whether unpaid taxes will prohibit a wife from obtaining registration on a vehicle, where the vehicle was formerly owned jointly by husband and wife, the husband died leaving the vehicle solely to his wife, and there are unpaid taxes due on property which is now in the estate of the husband. Once again, we refer to the provisions of K.S.A. 1985 Supp. 8-173, which require only that the person making application for registration of a vehicle show proof that such person has paid all of his or her personal property taxes for the preceding year. The statute makes no reference to such person's liability for unpaid taxes due on property owned by the spouse or property in the spouse's estate. Expressio Unius, Exclusio Alterius (the expression of one thing is the exclusion of another). Using this Latin phrase to construe the legislative intent of the statute, and the fact that taxing statutes are to be strictly construed in favor of the taxpayer [In re Order of Board of Tax Appeals, 236 Kan. 406, 412 (1984)], we conclude that by expressly requiring an applicant to prove only that his or her taxes are paid, the statute automatically excludes an applicant's potential liability for a spouse's unpaid personal property taxes. Accordingly, it is our opinion that unpaid taxes due on property in the husband's estate will not prohibit the wife from obtaining registration on a vehicle, as long as the vehicle is owned solely by the wife upon the husband's death.

In summary, K.S.A. 1985 Supp. 8-173 requires the person making an application for registration of a vehicle to show proof that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle. When personal property is held jointly, both persons are liable for taxes levied thereon. Accordingly, under K.S.A. 1985 Supp. 8-173, a county treasurer may not accept an application for registration of a jointly-owned motor vehicle from either owner until the unpaid taxes on the vehicle and all other personal property taxes assessed to the owners are paid in full. Furthermore, a county treasurer may accept a motor vehicle registration application from a person whose spouse has died, leaving property in the

estate upon which unpaid taxes are due, provided the applicant's taxes are paid for the preceding year and the applicant has sole ownership of the vehicle.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Barbara P. Allen
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RTS:JLM:BPA:crw