



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 21, 1976

ATTORNEY GENERAL OPINION NO. 76- 292

Mr. Raymond C. Vaughn
Director
Division of Property Valuation
State Office Building
Topeka, Kansas 66612

Re: Taxation--Motor Vehicles--Proration

Synopsis: Motor vehicles in Kansas are valued and assessed for taxation on January 1, for the whole calendar year, and the proration law does not change this. All that is required for proration is that there be both a prorator and a proratee. When a motor vehicle is purchased from a dealer, or is purchased out of Kansas and brought into the state, between January 1 and July 1, the assessor lists the vehicles for taxation under the statutory formula for the remainder of the year, unless prior assessment of the vehicle in another state or county can be proven. Until September 1, the owner may sell any such vehicle and secure a tax proration of the balance of the tax year--provided that the buyer will assume that balance of the taxes. Vehicles purchased by Kansans out of state after July 1, or brought into the state by persons settling in Kansas, or coming from another Kansas county after July 1, cannot be put on the tax rolls for the current year. In neither of these two instances can proration of taxes occur because there are no taxes to prorate.

* * *

Dear Director Vaughn:

Your letter of July 2, 1976, lists eight different situations for the valuation and assessment of motor vehicles under our current

Mr. Raymond C. Vaughn
September 21, 1976
Page Two

proration law, K.S.A. 1975 Supp. 79-306c. We will answer the questions in the order asked.

First, you inquire whether the value of an automobile belonging to a Kansas resident which is sold in the state of Kansas between January 1st and September 1st, but not traded for another vehicle is subject to proration for that year. It is. K.S.A. 1975 Supp. 79-306(c) is a "proration" law, and it can be used only for proration purposes.

This matter was fully argued to the Court in *State ex rel. v. Dwyer*, 204 Kan. 3, 460 P.2d 507 (1969). A majority of the Court concluded that a proper administration of this law would not result in double taxation. Proration requires both a prorator (seller) and the proratee (buyer). The concept of "proration" is completely lost if there is no division of assessment. It is illogical to contend that the legislature "intended" that each time title to a motor vehicle changed during the year, each owner would be assessed anew for the balance of the year. No property can be assessed more than once in one year, *Railway Co. v. Wyandotte County*, 101 Kan. 618 (1917).

When an owner of a motor vehicle, assessed prior to July 1, sells it, the statute describes how the buyer's assessment for the remaining part of the year shall be determined. Logic, the constitution, and *Dwyer, supra*, require that the seller's assessment be abated accordingly.

Secondly, you inquire whether the value of an automobile belonging to a Kansas resident which is sold outside the state of Kansas between January 1 and September 1, but not traded for another vehicle, is subject to proration?

It is not, because the out-of-state buyer will ordinarily not agree to be a proratee, and there is no way to make him be a proratee. So, the Kansan selling out-of-state must pay the whole year tax.

Third, you ask if the value of an automobile purchased by a Kansas resident outside the state of Kansas between July 1st and September 1st, and brought into the state between those dates is subject to taxation for that year, and if so, is such valuation prorated?

It is not. K.S.A. 79-316 applies to both residents and non-residents of Kansas alike. Personal property brought into Kansas or a county after July 1 shall not be listed for taxation that calendar year. Not being subject to taxation, there can be no proration.

Mr. Raymond C. Vaughn
September 21, 1976
Page Three

Next, you ask if the value of an automobile purchased by a Kansas resident outside the state of Kansas between January 1st and July 1st, and brought into the state between those same dates is subject to taxation for that year, and if so, is such valuation prorated? It is.

If a Kansan buys a car out-of-state between January 1 and July 1, and brings that car into Kansas before July 1, K.S.A. 79-316 says it shall be put on the tax rolls if taxation in another state or county cannot be proven. K.S.A. 1975 Supp. 79-306c(c) provides for the valuation method whether it is purchased outright or as a trade-in for a replacement vehicle. There is no conflict between these two statutes. Both refer to vehicles that are properly on the tax rolls on July 1. Two more months are given in which to prorate tax roll vehicles in the event of sale, between eligible buyers and sellers.

Fifthly, you ask whether, assuming that with regard to the two previous questions, numbers 3 and 4, that the resident of one county purchased a vehicle in another county and then brought the vehicle back into his county of residence between the dates set out, this situation would create any different result than that posed in questions 3 and 4?

It would not produce any different result if the purchases were made, not out-of-state, but in a different Kansas county. Under K.S.A. 79-316, when a person brings into a county personal property from another Kansas county PRIOR to July 1, it shall be put on the tax rolls, if prior assessment in another county cannot be proven. The reverse of this provision is that if the property is brought into a county AFTER July 1, it shall not be listed for taxation.

Sixthly, you ask if the value of an automobile brought into a county either between January 1st and July 1st, or after July 1st and prior to September 1st, by a person, association, or corporation settling or organizing in said county is subject to any proration, assuming that no proof of assessment can be shown in another county or another state for that year?

This question proposes that there is a conflict between K.S.A. 79-316, which has a cut-off date of July 1, and K.S.A. 1975 Supp. 79-306c, which has a cut-off date of September 1.

Statutes must be reconciled if possible, so as to make them consistent, harmonious and sensible. *Fleming Co. v. McDonald*, 212 Kan. 412, 511 P.2d 221 (1973). An orderly and timely system of assessment of taxes is imperative to the successful operation of government. *Northern Natural Gas Co. v. Bender*, 208 Kan. 135, 490 P.2d 399, cert. den. and appeal dismissed. 406 U.S. 967, 92 S.Ct. 2408, 32 L.Ed.2d 663 (1971). Even state tax assessment reviewing

Mr. Raymond C. Vaughn
September 21, 1976
Page Four

authorities must conform to the orderly scheme of taxation established by the legislature. *Mobil Oil v. Metcalf*, 207 Kan. 100, 483 P.2d 1111 (1971). In *Bender, supra*, it was held that all statutes pertaining to taxes, as an integral part of the overall pattern and scheme of taxation established by the legislature, must be considered in determining legislative intent.

July 1 is an important milestone in the tax calendar. All county boards of equalization adjourn *sine die* June 15th. The county clerk has certified to all taxing districts a positive figure as being the tax base upon which upcoming budgets can be figured. Also, K.S.A. 1975 Supp. 79-5a07, provides that the Director of Property Valuation shall, on or before June 15, certify to the county clerks all state-assessed valuations for each taxing district in their respective county, and on or before July 1, the county clerk shall certify such utility valuations, "along with other applicable valuations".

July 1 triggers the initiation of the new budget. During the next few weeks the proposed budget is prepared, published and hearings held. The budget is then adopted and the necessary tax levy, based upon the tax roll as certified, is determined and every taxing district must certify the adopted budget and proposed levy to the county clerk by August 25. K.S.A. 79-1801. Also, any changes made by the State Board of Tax Appeals must be certified to the clerk prior to August 25, and any change in the assessment thereafter must be handled as an abatement, refund, or added tax. K.S.A. 79-1409.

There is no question but that the legislative tax calendar contemplates a closing of the tax rolls on July 1, and a certainty of the tax base and levies after August 25. This is a necessity because the clerk must have time to enter valuations for each tract, compute the sum to be levied and deliver the same to the county treasurer who must prepare tax statements to be mailed to each taxpayer on November 1. "Final cutoff date in our taxing system so as to give certainty and stability to public revenues in a given year is an obvious necessity". *Dwyer, supra*, p. 9.

When the first proration law was adopted in Chapter 431, Laws of Kansas for 1969, it provided: "Motor Vehicles acquired, or purchased, after November 1 of any year shall not be subject to assessment and taxation for the year in which they are acquired."

Mr. Raymond C. Vaughn
September 21, 1976
Page Five

This left no time at all to make tax statement changes where a vehicle on the tax rolls was sold October 30 and a proration requested. In 1971, by Chapter 292, the Kansas Legislature changed this date to September 1. This was done to stop any proration after preparation of tax statements had begun. It is evident that the "motor vehicles" which are referred to in this proration law are those placed on the tax rolls and assessed prior to July 1. They alone are subject to a proration of assessment.

It follows, therefore, that reference to "motor vehicles" in K.S.A. 1975 Supp. 79-306c(c) which were being "acquired, purchased, traded or sold" referred only to those motor vehicles which were placed on the tax rolls prior to July 1. This follows because this is a proration law, and only assessments legally made can be prorated.

Seventh, you ask whether a trade of two vehicles by a Kansas resident, made outside the state where a resident takes a vehicle to another state, trades it and brings another vehicle back into this state, the resident never moving from the state or changing his residency within the state, is subject to proration, assuming the trade is consummated between January 1st and September 1st?

It makes no difference whether the Kansan who takes his car outside Kansas makes an outright sale or trades it for a replacement vehicle. In both instances, this Kansan has violated K.S.A. 79-319. Actually, the whole year's assessment becomes due at once when he takes his property out-of-state.

The Kansas legislature has taken precautions to protect the tax rolls from erosion during the year prior to payment of taxes on November 1. Without such protection, budgets would be underfunded, because levies could not be enforced against absent property. This is why the presence of a proratee is necessary.

As to the old car which the Kansan sells out-of-state, the answer to your second question applies. As to the new car or trade-in which the Kansan purchased out-of-state and brings back into Kansas prior to July 1, the answer to your fourth question applies. If after July 1, answer number three applies.

Lastly, you ask whether a trade by a resident of one county trading in another county but retaining his residency and bringing the new vehicle back into his county of residence would be subject to proration so long as the trade is made between January 1st and September 1st?

Mr. Raymond C. Vaughn
September 21, 1976
Page Six

It would be. When the buyer of a vehicle in another county comes to his home county treasurer to register his vehicle and get tags, he presents all the information about selling his old car, as well as for his new one. K.S.A. 1975 Supp. 79-306c(c)(d) requires the treasurer to furnish the assessor such information, and the tax records are adjusted accordingly. The buyer of the old car in the "other" county goes through an identical procedure.

Several states have adopted a procedure of collecting taxes on vehicles annually when tags are issued and this procedure seems to eliminate many of the problems raised.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:CJM:en