



STATE OF KANSAS

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January 5, 1979

ATTORNEY GENERAL OPINION NO. 79- 6

Mr. Fred C. Purvis
County Appraiser
Cherokee County Courthouse
Columbus, Kansas 66725

RE: Taxation of Motor Vehicles - Proration - Where Seller of Motor Vehicle Prior to September 1 Fails to Notify County Officials of Sale Until After November 1 - Procedure. K.S.A. 79-306c, 79-1701, 79-1701a, 79-1703.

SYNOPSIS: The legislature has established an orderly scheme of taxation which recognizes that there must be cutoff dates as a matter of practical necessity. When the work of valuation, assessment, equalization has been finished, budgets adopted, levies computed, tax statements prepared and mailed, taxing officials are without authority to take up the subject of valuation anew and make adjustments which disturb and confuse the financial affairs of taxing districts and destroy the certainty and stability of public revenues for a given year. The owner of a motor vehicle, who sells or trades it prior to September 1, has the burden of establishing his right to proration by notifying local county officials prior to September 1, particularly where the vehicle is sold out of county.

* * * *

Dear Mr. Purvis:

You say you have hundreds of taxpayers filing for proration after receiving their tax statements in November, thereby grossly upsetting the tax base and creating havoc with the budgets of taxing units concerned. You ask for the procedure which should be taken.

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The legislature has in Kansas established an orderly scheme of taxation for a given year by setting guidepost dates on or by which certain matters must be accomplished. This is a practical necessity. State ex rel. v. Dwyer, 204 Kan. 3, 460 P.2d 507 (1969), stated:

"A final cutoff date in our taxing system so as to give certainty and stability to the public revenues in a given year is an obvious necessity, which fact this court has recognized (Benn v. Slaymaker, 93 Kan. 64, 143 Pac. 503)." (p.9)

All property, real and personal, must be valued at its fair market value as of January 1 of each year and then assessed at 30% of that value. K.S.A. 79-1439. This is repeated in K.S.A. 79-309, which pertains to personal property, including motor vehicles, and then this statute adds: "and the transfer and sale of any taxable personal property subsequent to the first day of January shall not authorize any person to omit the same from the list, although such list be not made until after the sale or transfer of such property; but all such property shall be listed for taxation in the same manner as if no sale or transfer thereof had been made."

This statute was not changed or amended after the passage of K.S.A. 79-306c, which pertained specifically to motor vehicles.

Under K.S.A. 79-1602 the Board of County Commissioners sit as the County Board of Equalization beginning on January 15 and must so sit from May 15th until June 5th to equalize personal property. State assessed values are certified to the appropriate officials of each taxing district by July 1. K.S.A. 79-5a07.

Taxing districts must commence preparing their budgets in July which must be adopted by August 1. K.S.A. 79-2927. After hearings are held, the budgets must be certified to the County Clerk by August 25. K.S.A. 79-1801.

Another related statute is K.S.A. 79-1409, which requires the Board of Tax Appeals to certify any changes ordered in valuations to the County Clerk by August 25.

On September 1 there are two factors in the tax process annually which have been established: the tax base, and the budgets to be raised from that base. It is then a computer problem to determine what levy on the total base is necessary to meet the approved budgets. The Clerk must further compute the levy against each parcel of land and taxable personal property listed on the tax rolls, and must get this done and in the hands of the County Treasurer by November 1. K.S.A. 79-1803.

The wheel of the tax calendar must grind inexorably by these deadline dates, or it will fail.

The deadline of September 1 in K.S.A. 79-306c, for the proration of motor vehicles, ties in exactly with this taxing system. That law provides: "Motor vehicles acquired, or purchased, after September 1 of any year shall not be subject to assessment and taxation for the year in which they are acquired."

Transfer of title is a prerequisite of acquisition. For this very reason K.S.A. 79-306c(d) says: The county treasurer, upon accepting an application for title of a vehicle, shall forthwith furnish the county assessor with such information as is shown on the title application." Thus, when a car is purchased and a new title is requested by the buyer, this law triggers immediately and automatic proration of the tax assessment between buyer and seller for the current tax year.

In our long distance telephone conversation you listed two situations which are causing you trouble: a) where the vehicle is sold within the county but the buyer fails to make application for title prior to September 1; and b) where the seller is a resident of your county and sells his vehicle to a buyer a resident of another Kansas county.

In our opinion, in each of these two situations, the county appraiser (assessor) has no authority to make prorations after September 1. K.S.A. 79-306c intends that there will be no change in assessment after that date. The stage of collection has commenced, levies computed, taxes determined to specific owners, and it is just impossible to take up the subject of valuation and assessment anew. This was so held in the recent case of Mobil Oil Corp. v. Medcalf, 207 Kan. 100, 483 P.2d 1111 (1971). This case held that, even the Director of Property Valuation and the Board of Tax Appeals must abide by these tax system deadlines, quoting at length from SLAYMAKER supra:

"While the tax commission has broad discretion in the exercise of its rightful power and need not restrict itself absolutely within arbitrary time limits, it is perfectly manifest that it is to act within the bounds of the scheme of taxation which the legislature has devised. The provision of section 9347, which has been quoted, must be read with section 9352, relating to the work of the tax commission sitting as the state board of equalization, and when valuation and assessment, including equalization, have been completed and closed for a given year, taxes have been levied on the basis of such val-

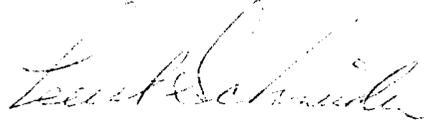
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uation, the taxing process has advanced to the stage of collection, and the valuation and assessment of property for the next year is in full progress, the commission is without authority to take up the subject of valuation anew whose readjustment would disturb and confuse the financial affairs of the various municipalities depending on the collection of taxes charged on the tax roll." (p. 67.)

After September 1, and before November 1, the County Clerk, not the County Appraiser, may correct clerical errors in tax rolls. K.S.A. 79-1701. After November 1 and until August 1 of following year after the property was assessed, only the Board of County Commissioners have authority to correct clerical errors in the tax rolls. K.S.A. 79-1701a. Except as provided by law, any remission or commutation of tax is forbidden. K.S.A. 79-1703.

Very truly yours,


CURT T. SCHNEIDER
Attorney General

CTS:CJM:gw