

660221.2

TAXATION: Proration of Real Property Taxes.

HIGHWAYS: Proration of taxes on real property acquired for highway purposes.

Real property taxes are levied for a calendar year and are collected for the calendar year in which the levy is made. Pursuant to Act 207 PA 1965 real property taxes are to be prorated on a calendar year basis in accordance with provisions of Section 1 of that Act.

No. 4463

February 21, 1966.

Mr. Howard E. Hill
State Highway Director
Department of State Highways
Stevens T. Mason Building
Lansing, Michigan

You have requested my opinion concerning the proper procedure to be followed in prorating general taxes, pursuant to Act 207, Public Acts of 1965, on real property acquired for highway purposes. Specifically, you ask whether taxes are to be prorated on a fiscal or calendar year.

Act 207 P.A. 1965 (M.S.A. Current Material § 7.679(1) et seq.) became effective July 16, 1965 and by its title is: "AN ACT to provide for the proration of general taxes on real property acquired for public purposes." Act 207 in its entirety is as follows:

"Sec. 1. When real property is acquired for public purposes, general taxes shall be prorated to the date of closing when acquired by negotiation. When acquired by condemnation, proration shall be to the date compensation is made or secured.

"Sec. 2. For the purpose of this act, taxes to be prorated are the taxes of each governmental unit having power to levy taxes on real property for the current calendar year, as required by the general property tax act to be shown on each statement and receipt for taxes on real property in which the closing date of a sale of real property occurs."

The starting point is tax day which by Act 209 P.A. 1958¹ was established as December 31 of each year. Under the law the taxable status of persons and property are determined as of tax day. Thus, in assessing real property taxes for the year 1966, the taxable status of persons and the real property to be assessed will be determined as of December 31, 1965.

In Michigan taxes are levied for a calendar year and are collected for the calendar year in which the levy is made. *Pere Marquette Railroad Co. v. Kalamazoo, Lake Shore & Chicago Railway Co.*, 158 Mich. 40. It follows that the taxes assessed and levied on real property in 1966 are the taxes for the calendar year 1966.

¹ Tax day is established as December 31 by amendment to Section 2 of the General Property Tax Act and as so amended appears as C.L.S. 1961 § 211.2, M.S.A. 1960 Rev. Vol. § 7.2.

Under Section 40 of the General Property Tax Act,² all taxes become a "debt" due to the township, city, village or county from the owner or person otherwise to be assessed on tax day. This "debt" is unsecured until the lien date specified by Section 40 of the General Property Tax Act which is fixed as the 1st day of December following tax day, except that a city or village may provide by its charter for a different lien date for city or village taxes.

Section 40 of the General Property Tax Act also provides that each statement and receipt for taxes on real estate sent or given by any county, township, city or village treasurer shall contain a statement, which shall be printed, stamped or written thereon, setting forth the date of the commencement and ending of the fiscal year of each taxing unit of government during which the general taxes stated thereon will defray the costs of governmental services rendered thereby.

If a parcel of property does not lie within the boundaries of a city or village, the General Property Tax Act will govern and no city or village charter provision will be involved. The taxes spread in such a rural area on the December tax roll will become a lien December 1 and are collected for county, township and school purposes. If the land lies within a community college district created pursuant to Act 188 P.A. 1955 as amended by Act 237 P.A. 1964³ then taxes for the community college may also be levied as provided in amended Section 8 of that Act.

A home rule city or village may provide in its charter for the assessing, levying and collecting of city and village taxes for the support of the city or village government. In some cities the city treasurer also collects school taxes and may under appropriate resolution by the board of trustees of a community college district collect taxes for that district against property of the district lying within the city. Under Section 40 of the General Property Tax Act, *supra*, the city or village by charter provision may fix the lien for taxes at a date other than December 1.

The fact that a tax statement may have printed, stamped or otherwise written on it the date of the fiscal year for which the taxes will be expended is immaterial to your question. Such a statement merely shows the period within which the taxing unit will use the money but it does not affect the date upon which taxes attach as a lien upon the property.⁴

Replying to your question, it is my opinion that under Act 207 P.A. 1965 real property taxes are to be prorated on the basis of a calendar year and not on a fiscal year. The date to be used in determining proration of real property taxes between the property owner and your department is to be

² The General Property Tax Act is Act 206 P.A. 1893 as amended, being C.L. 1948 and C.L.S. 1961 § 211.1 et seq., M.S.A. 1960 Rev. Vol., 1963 Cum. Supp. and Current Material § 7.1 et seq. Section 40 is C.L.S. 1961 § 211.40, M.S.A. 1960 Rev. Vol. § 7.81.

³ Act 188 P.A. 1955 as amended prior to 1964 appears in M.S.A. 1959 Rev. Vol. and 1963 Cum. Supp. § 15.615(11) et seq. Act 237 P.A. 1964 appears at Current Material 1964 Legislative Session § 15.615(11) et seq. Acts 19, 68 and 84 P.A. 1965 further amend Act 188 P.A. 1955 with respect to sections not pertinent here.

⁴ Opinion No. 2074, O.A.G. 1955-56, Vol. 1, page 257.

ascertained in accordance with Section 1 of Act 207 P.A. 1965 which is free from any ambiguity and requires no interpretation by me.

660309.1

FRANK J. KELLEY,
Attorney General.

EXECUTIVE BRANCH: Organization of Principal Departments.

Type I transfer of existing boards, offices, commissions and agencies to a principal department established by Act No. 380, Public Acts of 1965, the Executive Organization Act of 1965, discussed and construed.

No. 4479

March 9, 1966.

Hon. George Romney
Governor
Capitol
Lansing, Michigan

You have requested my opinion as to the proper interpretation to be placed on a Type I transfer and on a Type II transfer as those designations appear in Act 380, Public Acts of 1965, as amended. You also request interpretation of Sections 8 (a) and 8 (b) of the basic act as amended. Act 380, P.A. 1965 is known as the Executive organization act of 1965. The Act became effective on July 23, 1965. It was subsequently amended by Act 407, P.A. 1965 which went into effect October 29, 1965. The amendatory act does not change the Type I transfer and therefore will not be given further consideration in answering the first question asked by you.

Due to your expressed desire that my opinion be furnished as expeditiously as possible, I have divided your request and submit herewith my response on the meaning of a Type I transfer. The balance of your request will be answered as soon as the necessary research can be completed and an opinion prepared.

The Type I transfer is described in Section 3(a) of Act 380, *supra*. Set forth below is the entire content of Section 3(a) of the Act, rearranged to show each sentence separately.

"Under this act, a type I transfer means the transferring intact of an existing department, board, commission or agency to a principal department established by this act.

"When any board, commission, or other agency is transferred to a principal department under a type I transfer, that board, commission or agency shall be administered under the supervision of that principal department.

"Any board, commission or other agency granted a type I transfer shall exercise its prescribed statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards, and adjudication independently of the head of the department.

"Under a type I transfer all budgeting, procurement and related management functions of any transferred board, agency or commis-