

the legitimate scope of inquiry. When such questions are put, objection may be made, and a witness may be justified in refusing to answer such questions.

FRANK J. KELLEY,  
*Attorney General.*

670922.2

**TAXATION:** Exemption of the United States from ad valorem property tax under Act No. 322, P.A. 1941, is neither repealed nor modified by Act No. 288, P.A. 1966.

Proration procedures on ad valorem taxes under Section 2 of Act No. 288, P.A. 1966, neither repeals nor modifies Act No. 322, P.A. 1941.

**UNITED STATES:** Act No. 322, P.A. 1941, exempting the United States from ad valorem taxes upon property acquired between the date of the tax roll's completion and the lien date is neither repealed nor modified by Act No. 288, P.A. 1966.

No. 4592

September 22, 1967.

Mr. James H. Cook  
Prosecuting Attorney  
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The federal government on November 28, 1966, acquired 26 acres of shore property in Alcona Township, Alcona County, Michigan. As part of the purchase agreement, it agreed to satisfy any liens or encumbrances on the property and apply the amounts so paid against the purchase price. The United States Department of Agriculture, Forest Service, requested cancellation of the 1966 taxes.

The State Treasurer, successor to the Auditor General,<sup>1</sup> in fulfillment of the duties specified by Act No. 322, P.A. 1941,<sup>2</sup> ordered that the assessment for the year 1966, which became a lien on the property on December 1, 1966, be cancelled in accordance with Act No. 322, the pertinent provision thereof being as follows:

"The auditor general is hereby authorized, empowered and directed to cancel all taxes, general and special, assessed upon lands, prior or subsequent to the effective date of this act, the title to which vested in the United States of America between the date the tax roll was required to be completed and the date the taxes become a lien on said lands."

You ask my opinion whether, under the aforementioned purchase agreement, the United States is liable for payment of the 1966 ad valorem taxes despite the provisions of Act No. 322, P.A. 1941, for their cancellation.

The purchase agreement contemplates that the United States be liable

<sup>1</sup> Act No. 380, P.A. 1965 [C.L.S. § 16.101 et seq.; M.S.A. 1965 Cum. Supp. § 3.29(1)].

<sup>2</sup> C.L. '48 § 3.181; M.S.A. § 7.1027.

for payment of all taxes which constitute a lien upon the property as of November 28, 1966. The 1966 taxes did not become a lien upon the property until December 1, 1966.<sup>3</sup> Since the taxes for the years prior to 1966 had been paid, no tax lien existed upon which the purchase agreement could be operative.

Act No. 322, P.A. 1941, *directs* the cancellation of taxes upon land acquired by the United States of America before the lien date, i.e., December 1, 1966. The word "directed," when used in a statute, has been construed to have the same meaning as the word "ordered." *People v. Guggenheimer*, 59 N.Y.S. 913. This leaves the Auditor General without discretion; he must order the cancellation of the county and school taxes for the year 1966.

You have pointed out, however, that there is a recent act, Act No. 288, P.A. 1966,<sup>4</sup> which pertains to procedures for the proration of taxes on property acquired by public bodies. The question is whether or not this act can be construed to either modify or repeal the provisions of Act No. 322, P.A. 1941. The pertinent provision of the current act is Section 2<sup>5</sup>, which reads in part as follows:

"Notwithstanding any provision to the contrary in any law, when real property is acquired for public purposes by purchase or condemnation, all general property taxes, but not penalties, levied during the 12 months immediately preceding, but not including the day title passes to the public agency shall be prorated in accordance with this paragraph (or section). The sellor or condemnee is responsible for the portion of taxes from the levy date or dates to, but not including, the day title passes and the public agency is responsible for the remainder of such taxes. If the date that title will pass cannot be ascertained definitely and an agreement in advance to prorate taxes is desirable, an estimated date for the passage of title may be agreed to. . . ."

A basic rule for resolving legislative intent is that a general statute is not presumed to repeal a specific statute; the latter takes precedent in the form of an exception to the general act. *Attorney General ex rel. Owen v. Joyce*, (1926) 233 Mich. 619; *Port Huron Mayor v. Treasurer* (1950), 328 Mich. 99; *State Highway Com'r. v. Detroit Controller* (1951), 331 Mich. 337.

Actually, the two acts are not in conflict. Act No. 288 refers to *proration* of taxes "levied during the preceding 12 months." The word "levied," when read in conjunction with the entire provision, must be construed to mean either "owing" or "paid." In contrast, Act No. 322 refers to *cancellation* of taxes between the time of the tax roll and the lien date. In other words, it relates to taxes which are neither owing nor paid. It must be concluded that Act No. 288, P.A. 1966, was not intended to encompass the situation involving the acquisition of property by the United States since cancellation

<sup>3</sup> Section 40 of Act No. 206, P.A. 1893, as amended [C.L.S. § 211.40; M.S.A. § 7.81].

<sup>4</sup> C.L.S. § 211.2 et seq.; M.S.A. Cur. Mat. § 7.2 et seq.

<sup>5</sup> C.L.S. § 211.2; M.S.A. Cur. Mat. § 7.2.

of the ad valorem property taxes would occur prior to the date they would become owing.

Therefore, in answer to your question, Act No. 322, P.A. 1941, required the Auditor General to cancel current ad valorem assessments on the federally acquired property for the year 1966 since the requirements of this act were neither repealed nor modified by Act No. 288, P.A. 1966.

FRANK J. KELLEY,  
*Attorney General.*

670922.3

**TAXATION: Soldier and Sailor Homestead Exemption.**

Members of the Michigan Army and Air National Guard called to active military service of the United States by the President of the United States during civil disturbances in Michigan are entitled to the benefits of the homestead exemption of soldiers and sailors of the federal government subject to the statutory limitations of such exemption.

No. 4608

September 22, 1967.

Mr. Allison Green, State Treasurer  
Bureau of Local Government Services  
1116 S. Washington Avenue  
P. O. Box 360  
Lansing, Michigan

By letter of August 12, 1967 you have inquired as to the eligibility for Veterans' Homestead tax exemption of members of the Michigan National Guard who were called to active military service of the United States during the recent civil disturbances in Michigan.

You have called attention to subdivision 11(e) of § 7 of the General Property Tax Law which provides exemption for

"(e) All real estate to the value of \$2,000.00 used and owned as a homestead by any soldier or sailor of the federal government who shall have entered service or who served after December 31, 1939, including all taxes assessed on such real estate during the periods of such service after December 31, 1939, and for 1 year thereafter; and if such soldier or sailor shall have died in line of duty and not as the result of his own misconduct while in such service, for 1 year after such death. No exemption granted in this paragraph shall be denied for any year of service or the 1 year thereafter for the reason that such soldier or sailor acquired such homestead subsequent to the tax day of such year."

By virtue of authority conferred upon the Secretary of Defense by the President of the United States under the provisions of Executive Order 11364, dated July 24, 1967, all units of the Michigan Army and Air National Guard except Headquarters and Headquarters Detachment Michigan Army National Guard, Headquarters Michigan Air National Guard and 1st Battalion (Nike-Herc) 177th Artillery, were called to active military service of