

introduce evidence tending to disprove the presumed fact that he or she and not a third person illegally parked the automobile.

Establishing a presumption against the vehicle owner simply eases the burden of proving in each individual cases, without the aid of inference, the actual identity of the person who illegally parks the vehicle. The influence legislatively supplied is supported by the strong practical likelihood the vehicle is parked by its owner and not a third party.⁵ The provision creates an evidentiary presumption, not vicarious liability.

FRANK J. KELLEY,
Attorney General.

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CONSTITUTION OF MICHIGAN: Art 4, § 24.

CONSTITUTION OF MICHIGAN: Art 4, § 25.

TAXATION: Tax Tribunal.

TAX TRIBUNAL: Jurisdiction.

ADMINISTRATIVE LAW AND PROCEDURE: Tax Tribunal Act.

Inasmuch as the Tax Tribunal Act focuses upon the single general purpose of providing a procedure to review and resolve tax conflicts, it does not violate the constitutional "one object" clause in Const 1963, art 4, § 24.

Because various provisions in other tax statutes are drastically altered by the Tax Tribunal Act, which provisions were not re-enacted and published at length, those portions of the Tax Tribunal Act purporting to achieve these changes are in violation of Const 1963, art 4, § 25 and are therefore invalid; the balance of the act is valid.

The State Board of Tax Appeals is not abolished.

The procedure for taking appeals in tax disputes involving state income taxes, intangible taxes, inheritance taxes, motor fuel taxes, cigarette taxes, severance taxes, sales taxes, and use taxes are not affected by enactment of the Tax Tribunal Act.

The Tax Tribunal has jurisdiction to hear tax cases involving property taxes and single business taxes.

Opinion No. 5138

December 10, 1976.

Mr. Allison Green
State Treasurer
Treasury Building
Lansing, Michigan 48922

Section 79 of the Tax Tribunal Act, 1973 PA 186, § 79, as amended by 1976 PA 37, MCLA 205.779; MSA 7.650(79), provides that beginning

⁵ It is more probable than not, however, leased vehicles are parked by the lessee and not the registered owner. Consequently, the legislature enacted 1949 PA 300, § 675b, *supra*, which establishes a presumption of guilt against the lessee.

January 1, 1976 cases presently submitted to "any quasi-judicial body, court of claims, probate court, district court, municipal court, common pleas court, or circuit court of this state" and dealing with the *state income, intangibles, inheritance, franchise, general sales, use, motor fuel, cigarette and severance taxes*, "shall proceed only before the tribunal."

1973 PA 186, § 79, further provides that tax matters subject to the jurisdiction of the State Board of Tax Appeals and Corporation Tax Appeal Board

"* * * shall continue to be filed with those boards until December 31, 1976. All such appeals commencing after December 31, 1976 shall be made to the state tax tribunal. Any appeals pending before the state board of tax appeals and the corporation tax appeal board shall be transferred to the tribunal on December 31, 1977, and the boards are abolished as of such date."

With the exception of the motor fuel, cigarette, use and severance tax statutes, the tax statutes referred to in 1973 PA 186, § 79 of the Tax Tribunal Act each contains its own provisions for administrative and/or judicial review of tax determinations.¹

Additionally, section 7 of the Department of Revenue Act, 1941 PA 122; MCLA 205.7; MSA 7.657(7), provides for review of any assessment, decision or order of the Revenue Division, Department of Treasury, by the State Board of Tax Appeals. By virtue of this provision, assessments, decisions and orders concerning all of the taxes administered by the Revenue Division are reviewable by the Board.

It may be noted that section 88 of the Single Business Tax Act, 1975 PA 228; MCLA 208.88; MSA 7.558(88), provides for review of any determination of tax liability before the State Tax Tribunal and for an action of refund of tax paid in the Court of Claims.

1975 PA 230; MCLA 450.304-450.310; MSA 21.205-21.210(1), which repealed the corporate franchise tax, provides for the filing of cases with the Corporation Tax Appeal Board through the calendar year 1976; its continued review of such cases through the calendar year 1977, and the transfer of any pending cases to the State Tax Tribunal on December 31, 1977.

Referring to Mich Const 1963, art 4, §§ 24 and 25, you have requested my opinion on the following questions:

¹ Section 421 of the Income Tax Act, 1967 PA 281; MCLA 206.421; MSA 7.557(1421), provides for review of tax determinations by the State Board of Tax Appeals or suit for refund in Ingham County Circuit Court. Section 22 of the Sales Tax Act, 1933 PA 167, as amended; MCLA 205.72; MSA 7.543, confines review to the same Board and suits for refund may be brought in the circuit court of the county in which the retail sales operation is carried on. Section 13 of the Intangibles Tax Act, 1939 PA 301; MCLA 205.143; MSA 7.556(13), provides for judicial review in circuit courts after payment of taxes found due. The Inheritance Tax Act provides for determination of tax by the probate court, and § 13, 1899 PA 188, as amended; MCLA 205.213; MSA 7.574, provides for rehearing before the same court. The franchise tax statute (now repealed) provides for review of tax redeterminations by the Corporation Tax Appeal Board.

“(1) What is the legal effect of Section 79 of Act 186 of the Public Acts of 1973, as amended?”

“(2) Should taxpayer appeals under the various statutes be directed to the Tax Tribunal after January 1, 1977, or must the separate tax acts be amended to accomplish this change?”

“(3) What should be the position of the department and the appellate agencies if a taxpayer chooses to pursue his appeal before the body designated for that function in the specific tax statute under which the appeal is made?”

“(4) Does Section 2 of Act 37, Public Acts of 1976, effectively abolish the State Board of Tax Appeals on December 31, 1977, even though * * * the transfer of its jurisdiction may not have been accomplished?”

The first three questions will be considered together. Mich Const 1963, art 4, § 24 provides as follows:

“No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.”

Const 1963, art 4, § 25 provides:

“No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.”

1976 PA 37, *supra*, contains the following title:

“AN ACT to amend section 79 of Act No. 186 of the Public Acts of 1973, entitled ‘An act to create the tax tribunal; to provide for personnel, jurisdiction, functions, practice and procedure; to provide for appeals; and to prescribe the powers and duties of certain state agencies; and to abolish certain boards,’ being section 205.779 of the Compiled Laws of 1970; and to repeal certain acts and parts of acts.”

The title to the Tax Tribunal Act refers to the creation of the Tribunal, its jurisdiction and the abolition of certain boards. It is my opinion that this comprehensive statement of legislative purpose in the title does not violate the constitutional “one object” clause. The act focuses on one main general object or purpose, namely, review and resolution of tax conflicts; and the title fairly and comprehensively declares such object or purpose.

Addressing the question whether the provisions of 1973 PA 186, § 79, as originally enacted and as amended by 1976 PA 37, violate the reenactment and republication requirements of Const 1963, art 4, § 25, it must be noted that specific provisions for administrative and/or judicial review of tax matters have not been repealed and, therefore, continue to exist in the income, intangibles, inheritance and sales tax statutes, as well as the Revenue Act. These provisions, therefore, are inconsistent with those of section 79 of the Tax Tribunal Act.

A primary function of Const 1963, art 4, § 25, is to provide notice of changes in the law. No provision in the Tax Tribunal Act gives notice to

taxpayers that the administrative and judicial review spelled out in various taxing statutes, has been drastically altered. If taxpayers or their counsel are unaware of the change in jurisdiction brought about by enactment of 1973 PA 186, § 79, *supra*, their unawareness is justified for the specific tax statutes dealing with income, intangibles, inheritance and sales contain their own review procedures which have not been repealed or revised.²

It is my opinion, therefore, that section 79 of the Tax Tribunal Act, as originally enacted and as amended by 1976 PA 37, violates Const 1963, art 4, § 25, and that its provisions are invalid. *People v Mahaney*, 13 Mich 481 (1865); *Alan v Wayne Co*, 388 Mich 210; 200 NW2d 628 (1972). To paraphrase *Alan, supra*, if the legislature intended to amend or alter the tax statutes, then it should have amended, altered directly and republished those statutes as contemplated by Const 1963, art 4, § 25.

Having found, in answer to your first question, that section 79 of the Tax Tribunal Act is invalid, it must logically follow that the specific provisions for review of tax controversies contained in the tax statutes remain in full force and effect. Taxpayers may continue to submit tax controversies to the review of those bodies designated for that function in the particular tax statute.

It should be emphasized, however, that the invalidity of section 79 does not affect other sections of the Tax Tribunal Act and the Tax Tribunal continues to be a viable forum with jurisdiction over property tax matters specified in 1973 PA 186, § 31, *supra*; MCLA 205.731; MSA 7.650(31), and single business tax controversies as provided in 1975 PA 228, § 88, *supra*; MCLA 208.88; MSA 7.558(88). *People v Bandy*, 35 Mich App 53; 192 NW2d 115 (1971); *American Youth Foundation v Benona Twp*, 37 Mich App 722; 195 NW2d 304 (1972); *Genesee Land Corp v Allen*, 50 Mich App 296; 213 NW2d 283 (1973); *Green v McKeon*, 335 F Supp 630 (1971).

Answer to your fourth question necessitates a determination as to whether that portion of section 79 of the Tax Tribunal Act, as originally enacted and as amended by 1976 PA 37, which abolishes the State Board of Tax Appeals and the Corporation Tax Appeal Board, can be given effect without doing violence to legislative intent. The question becomes: Would the legislature have intended the abolition of these boards despite the fact that their jurisdiction was not constitutionally transferred to the Tax Tribunal by the remaining provisions of 1976 PA 37?³

² The original version of section 79 of the Tax Tribunal Act did not contain a subsection (3). That subsection was added by 1976 PA 37, effective March 10, 1976. Consequently, in the interim between January 1 and March 10, 1976, cases under the specific tax statutes were purportedly to be filed with the Tax Tribunal.

The official records of the State Board of Tax Appeals indicate that fifty (50) cases were commenced before the Board in the period January 1 through March 10, 1976. Such fact would indicate that the general public continued to rely upon the review provisions set forth in the tax statutes and were unaware of the provisions of 1973 PA 186, § 79.

³ OAG, 1975-1976, No. 4870, p (June 13, 1975); *People v DeSilva*, 32 Mich App 707; 189 NW2d 362 (1971).

I note that the Corporation Tax Appeal Board will be abolished on December 31, 1977, by 1975 PA 230, which repealed the corporate franchise tax. Such abolition is logical in view of the extinction of subject matter over which it could exercise jurisdiction. I, also, note that the State Board of Tax Appeals, created by section 8 of the Revenue Act, MCLA 205.8; MSA 7.657(8), and charged with certain functions and duties by sections 7 and 9, MCLA 205.7, 205.9; MSA 7.657(7), 7.657(9), of that act, remains the only administrative tribunal to review assessments, decisions and orders of the Revenue Division, Department of Treasury.

I am, therefore, of the opinion that the legislature did not intend to abolish the State Board of Tax Appeals unless its jurisdiction was effectively transferred to another administrative or quasi-judicial body. Consequently, I conclude that 1973 PA 186, § 79, as originally enacted and as amended by 1976 PA 37 is invalid in its entirety and that it does not abolish the State Board of Tax Appeals.

FRANK J. KELLEY,
Attorney General.

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COLLEGES AND UNIVERSITIES: Health and safety statutes.

STATUTES: Colleges and universities subject to statutes enacted to protect the public health and safety.

BOILERS: Colleges and universities subject to the Michigan Boiler Act.

State universities and colleges are required to comply with the provisions of a statute enacted to protect the public health and safety. State colleges and universities are subject to the provision of the Michigan Boiler Act.

Opinion No. 3662

December 15, 1976.

Mr. Keith Molin, Director
Department of Labor
300 E. Michigan Avenue
Lansing, Michigan 48926

My opinion has been requested on whether the provisions of the Michigan Boiler Act, 1965 PA 290; MCLA 408.751 *et seq*; MSA 17.137(1) *et seq*, authorize Department of Labor boiler inspectors to perform compliance inspections on boilers on the campuses of Michigan baccalaureate institutions.

Your question involves the relationship between the constitutional status of universities and the statutory authority of the Department of Labor, as provided under 1965 PA 290, *supra*.

Const 1963, art 8, § 5 provides:

"The regents of the University of Michigan and their successors in office shall constitute a body corporate. . . . Each board shall have