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Letter Opinion No.62-82-L
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ARIZONA ATTORNEY GENERAL

REQUESTED BY: Hon. Alvin F. Krupp
Graham County Attorney

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Is the County Assessor required
to assess taxes on the property
of a widow who remarries prior
to May 1?

CONCLUSION: Yes.

There are no cases precisely in point on this subject. However, we do have two cases that distinctly indicate the above answer. The first of these is Territory v. Perrin, 9 Ariz. 316, 83 P. 361 (1905). The question before the Territorial Supreme Court involved the acquisition of land by a tax exempt body prior to April, 1902. It was contended that inasmuch as the land was actually owned by a taxpayer for part of the year that he would be liable for at least part, if not all, of the taxes for that year. The Supreme Court held, however, that no tax was due and gave the following reason:

"There can be no real or effective lien until the amount of taxes is ascertained and assessed. 'In the nature of things, no tax or assessment can exist, so as to become an encumbrance on real estate until the amount thereof is ascertained and determined' (Citations omitted). Under such provisions of law when the rate of taxes is fixed and the amount determined and levied the lien for such amount relates back and attaches as of the date specified in the statute (Citations omitted). In the case at bar the land having become the property of the United States at the time the taxes were levied and assessed and no longer subject to taxation, the acts of the taxing officer were void and of no effect."

Under our present system of taxation the tax rate is not fixed by the County Supervisors until the tax roll has been approved and the budget determined. Under the provisions of A.R.S. §42-304 this is normally done on or about the 3rd Monday of August of each year.

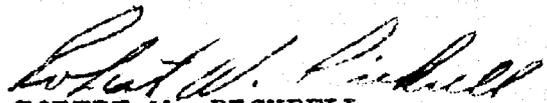
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It can be done prior to that date, but in no event any earlier than the 3rd Monday of July of each year. See A.R.S. §42-302.

The Supreme Court held in the case of Hallas v. Evans, 69 Ariz. 14, 207 P.2d 985 (1949) that the language in the Perrin case applied equally to where the exemption claimed arose from a claim of a widow's exemption. In that particular case the taxpayer became a widow on February 10 of the tax year. The Supreme Court specifically held that as the incidence of widowhood occurred prior to the fixing of the taxes the taxpayer could validly claim an exemption. Logic would, therefore, indicate that if the incidence of widowhood no longer exists prior to the fixing of the tax rate the exemption no longer exists. We realize that under the legal theory of these cases the determination of exemption or non-exemption status actually can be in doubt until the amount to be raised by taxation is fixed, levied or assessed on or before the 3rd Monday in August. However, we also realize that the assessor makes his report between the 1st and 20th of May and that changes thereafter are often difficult to determine. However, there can be no doubt that if the assessor is actually aware that the status of widowhood has been lost prior to May 1, that the property of the widow should be placed on the tax rolls.

We trust that this will answer your question.


ROBERT W. PICKRELL
The Attorney General

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