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STATE CAPITOL
PHOENIX, ARIZONA

December 28, 1966

DEPARTMENT OF LAW OPINION NO. 67-4 (R-31)

REQUESTED BY: DAVID H. CAMPBELL, Superintendent
Motor Vehicle Division

QUESTIONS:

1. Does the Motor Vehicle Division have the responsibility for collecting the tax imposed on watercraft by A.R.S. § 5-324?
2. If the answer to question 1 is "Yes", may the Motor Vehicle Division delegate authority to the county assessors to register watercraft and collect license taxes on watercraft?
3. May the assessors remit amounts received in respect to watercraft license taxes directly to the State Lake Improvement Fund rather than to the Motor Vehicle Division for deposit to the State Lake Improvement Fund?
4. (a) Is the effective date on which House Bill 239, Chapter 116 of the Twenty-seventh Legislature became law, November 29, 1966, the date of compliance with Article 4, Section 1 of the Arizona Constitution?

(b) Is the effective date of the change in the registration fee from \$3.00 to \$1.50 November 29, 1966?

(c) Is the effective date of the exemption of watercraft from property tax January 1, 1967?

ANSWERS:

1. Yes.
2. Yes.
3. Yes.

4. (a) Yes.
(b) Yes.
(c) Yes.

The applicable law is Article 9, § 16 of the Arizona Constitution which reads as follows:

"Commencing January 1, 1967, all watercraft registered for operation in Arizona, excluding watercraft owned and operated for any commercial purpose, is exempt from ad valorem property taxes. Watercraft exempt from ad valorem property taxes shall be subject to or exempt from a license tax, as may be prescribed by law.

" 'Watercraft', as used in this section, shall be defined as provided by law."

Chapter 116 of the Session Laws of the 1967, Twenty-seventh Legislature, amended Title 5, Chapter 3 of the Arizona Revised Statutes by adding Article 2, §§ 5-321 to 5-325 inclusive and amended §§ 5-306.05, 5-314 and 5-315. Pertinent portions of Chapter 116 are set out in the body of the opinion.

QUESTION 1: The license tax on watercraft is imposed by A.R.S. § 5-324. The statute does not expressly state who is to collect the license tax. However, A.R.S. § 5-325 provides as follows:

"Monies received from the taxes imposed under the terms of this article shall be deposited by the motor vehicle division to the state lake improvement fund to be used as prescribed by the terms of section 5-315."

The legislative intent of a statute may be determined from necessary implication, what is necessarily implied being as much a part of the statute as what is expressed. Coggins v. Ely, (1921) 23 Ariz. 155, 202 Pac. 391; Maricopa County v. Douglas, (1949) 69

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Ariz. 35, 208 P.2d 646; Arizona Corporation Commission v. Gem State Mutual Life Assurance, (1951) 72 Ariz. 403, 236 P.2d 730; Police Pension Board of City of Phoenix v. Warren, (1965) 97 Ariz. 180, 398 P.2d 892. In Mahoney v. County of Maricopa, (1937) 49 Ariz. 479, 68 P.2d 694, the court quoted with approval the following language from § 336 of Sutherland on Statutory Construction:

"The necessary implication means not natural necessity, but so strong a probability of an intention that one contrary to that which is imputed to the party using the language can not be supposed."

Applying these rules of construction to the provisions of A.R.S. § 5-325, the clear inference and the strong probability is that when the Legislature provided for money received from the payment of such taxes to be deposited by the Motor Vehicle Division to the State Lake Improvement Fund, it intended that the Motor Vehicle Division have the primary responsibility for the collection of watercraft license taxes imposed thereunder.

QUESTION 2: There is no provision of the Arizona Revised Statutes that specifically authorizes the Motor Vehicle Division to delegate the collection of watercraft license taxes to the county assessors. A.R.S. § 5-306.05 E provides:

"The motor vehicle division may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this article and with any rules and regulations of the motor vehicle division, shall be valid as if awarded directly by the motor vehicle division."

A.R.S. § 5-306.05 A provides:

"The owner of each watercraft requiring numbering by this state shall file an application for number

with the Arizona motor vehicle division on forms approved by it. The application shall be signed by the owner of the watercraft and shall be accompanied by a fee of one dollar fifty cents. Fifty cents of each such fee shall be retained by the county assessor for services rendered by him in processing such registration, which shall be deposited in the county general fund. . . ."

From the above quoted provisions indicating that the Motor Vehicle Division could appoint an agent to issue certificates of numbers for watercraft and that the registration fee would be collected by the county assessor, it is apparent that the Legislature intended that the county assessors act as the agents of the Motor Vehicle Division in administering the law pertaining to registration of watercraft just as the county assessors act as agents of the Motor Vehicle Division under A.R.S. § 28-301 in administering the laws pertaining to the licensing of automobiles. Articles 1 and 2 of Title 5, Chapter 3 both pertain to a single statutory plan for the registration and taxation of boats and are therefore in pari materia. Where a statute is found to be ambiguous, the legislative intent may be gathered from statutes in pari materia. Homeowners Loan Corporation v. City of Phoenix, (1938) 51 Ariz. 455, 77 P.2d 818; Automatic Machine Company v. Pima County, (1930) 36 Ariz. 367, 285 Pac. 1034; Frazier v. Terrill, (1947) 65 Ariz. 131, 175 P.2d 438; Desert Waters Incorporated v. Superior Court in and for Pima County, (1962) 91 Ariz. 163, 370 P.2d 652. Article 1 of Title 5, Chapter 3 indicates that the Motor Vehicle Division is to have the responsibility for the administration of the statute and the county assessors are to act as their agents. Since Article 2 was part of the same legislative plan, Article 1 and Article 2 should be construed in pari materia. Accordingly, it is our opinion that the Motor Vehicle Division may delegate authority to county assessors to collect watercraft license taxes and to perform such acts as are necessary to register watercraft.

QUESTION 3: A.R.S. § 5-325 provides as follows:

"Monies received from the taxes imposed under the terms of this article shall be deposited by the motor vehicle division to the state lake improvement fund to be used as prescribed by the terms of § 5-315."

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From a procedural standpoint Article 1 and 2 of Title 5, Chapter 3 are rather sketchy. For example, A.R.S. § 5-306.05 provides that the application for a number will be filed with the Arizona Motor Vehicle Division and that it is to be accompanied by a fee of one dollar and fifty cents of which fifty cents will be retained by the county assessor for services rendered by him in processing the registration. Where that statute referred to the Motor Vehicle Division in connection with the filing of the application, it was obviously referring to the county assessor as the agent of the Motor Vehicle Division. It is our opinion that the phrase "Motor Vehicle Division" was used in the same loose sense to include county assessors acting as its agents in A.R.S. § 5-325. This use of the phrase "Motor Vehicle Division" is entirely proper when it is considered that the obvious, general intention of the Legislature in enacting these statutes was to adequately allocate the general responsibilities for the various functions rather than to describe in detail the physical mechanics of procedure. Accordingly, it is our opinion that the assessors may remit, in accordance with appropriate directions from the Motor Vehicle Division, amounts received in respect to watercraft license taxes directly to the State Lake Improvement Fund rather than to the Motor Vehicle Division for deposit to the State Lake Improvement Fund.

QUESTION 4: House Bill 239, Chapter 116 of the Twenty-seventh Legislature relating to the registration and imposition of license tax on watercraft had a conditional enactment clause which provided that the act would not become effective until such time as the Constitution of Arizona was amended by vote of the people to impose a license tax in lieu of an ad valorem property tax on watercraft registered for operation in Arizona. Under the provisions of Article 4, Part 1, § 1(5) the license tax amendment to the Constitution became effective upon the proclamation of the Governor on November 29, 1966. Accordingly, November 29, 1966, is the effective date of House Bill 239, Chapter 116, of the Twenty-seventh Legislature.

Since Chapter 116 became effective on November 29, 1966, and no express provision was made for a different effective date for the change in registration fee, the effective date of the change in registration fee from three dollars to a dollar and fifty cents is November 29, 1966. The effective date of exemption of watercraft from the

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property tax is January 1, 1967, because Article 9, § 16 of the Arizona Constitution provides that all watercraft registered for operation in Arizona are exempt from ad valorem property taxes commencing January 1, 1967.

Respectfully submitted,

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