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4/23/51

April 23, 1951  
Op. No. 51-116

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**ARIZONA ATTORNEY GENERAL**

Col. Frank E. Fraser  
Executive Officer  
Office of the Adjutant General  
747 West Van Buren Street  
Phoenix, Arizona

Dear Col. Fraser:

We have your letter of April 12, 1951 regarding the transfer to the National Guard of certain land in Pima County for which the Guard has received a tax bill from Pima County for taxes assessed against the previous owners. Your question is whether the State is liable for such taxes.

This matter has been before the Supreme Court of Arizona several times, and the latest expression of that Court is found in the case of Shumway v. State of Arizona, 63 Ariz. 400, 163 P. 2d 274, where this language appears:

"It is readily seen that if the State of Arizona in its own name had continued the original foreclosure action and had obtained judgment and bid in the property at the sheriff's sale, it could not claim a lien for taxes against its own title. In the case of State ex rel. Peterson v. Maricopa County, 38 Ariz. 347, 300 Pac. 175, 177 (decided before the 1931 amendment), we adopted the rule that a previously existing tax lien becomes merged in the legal title of the state when the property affected is acquired by the state, the reasons given therefor being

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'Upon consideration of the two rules,  
we are of the opinion that general  
principles of public policy in cases  
where the tax lien has not become a  
vested right in the hands of a third  
party are best served by adherence  
to the rule first above set forth.  
\* \* \* "

It is therefore our opinion that where, as here,  
the State acquires real property with taxes due thereon,  
the State is not liable to itself for such taxes and as  
a consequence the National Guard as a department of the  
State is not liable for the taxes involved herein.

Trusting this answers your inquiry, we are

Very truly yours,

FRED O. WILSON  
Attorney General

PERRY M. LING  
Chief Assistant  
Attorney General

PML:mw

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