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OFFICE OF THE
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STATE CAPITOL
Phoenix, Arizona 85007

JOHN A. LASOTA, JR.
ATTORNEY GENERAL

August 2, 1978

Mr. David P. Jankofsky
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Arizona Department of Revenue
1700 West Washington
Phoenix, Arizona 85007

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ARIZONA ATTORNEY GENERAL

Re: 78-186 (R77-311)

Dear Mr. Jankofsky:

In your letter of September 16, 1977, you requested our opinion on the following questions:

(1) If the Department of Revenue, using information contained in income tax returns, discovers residential rental property the owner of which did not file an information report, can this fact be relayed to the county assessor in any way without violating the confidentiality provision of the Income Tax Code?

(2) Can the Department include a statement in the Income Tax Instructions to the effect that the information report will be checked against the information contained in the income tax return, in light of the confidentiality statutes?

Arizona Revised Statutes § 43-145(C) prohibits the publication or disclosure of information in State tax returns by the Department of Revenue, subject to several exceptions. The applicable exception in this case is § 43-145(b)(3), which provides in relevant part:

The tax commission may permit the commissioner of internal revenue of the United States, or other tax officials of this state, . . . or the authorized representative of any such officer, to inspect the income tax returns of any individual, estate, trust or partnership,

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or may furnish to the officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer. . . .

The primary issue is whether county assessors, to whom information about "hidden" residential rental property would be valuable, fall within this exception.

"[O]ther tax officials of this state" is not defined in Title 42 or 43. It is therefore appropriate to examine statutory provisions detailing the duties of county assessors. Our review persuades us that a county assessor is a "tax official of the state" for purposes of A.R.S. § 43-145(b)(3).

A.R.S. § 42-221(A) provides:

Each county assessor is hereby designated as a deputy director of the department for the purpose of determining the valuation of property within his county for state property tax purposes.

We do not believe that by using the word "valuation" in this subsection, the Legislature intended to limit the county assessor's responsibility solely to the appraisal function since the assessed valuation is determined in part by the classification process. The county assessor's statutory function extends to the overall valuation process, including the classification of property within his county. This is clearly illustrated by the statutory relationship of the Department of Revenue and the county assessor.

Pursuant to A.R.S. § 42-123, the county assessor is responsible for the assessment of state, county and local property taxes. This serves to insure uniform valuation of all property throughout the State, regardless of the county in which it might be located. A.R.S. § 42-221(F) states that the county assessor must rule on every petition for revaluation filed by a taxpayer. This procedure is required for petitions for revaluation and those for classification. A.R.S. § 42-254. A.R.S. § 42-221(B) requires the county assessor to determine the tax classification of properties that are not valued by the Department of Revenue. See also, Op. Atty. Gen. 71-29. Finally, under the provision of A.R.S. § 42-227(D) the assessor is charged

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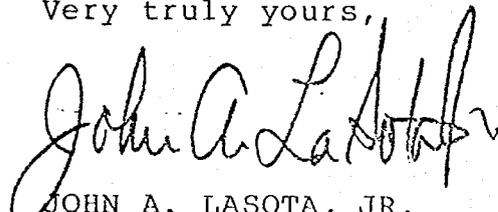
with the responsibility of "applying the appropriate percentage to the full cash value of all property so that the assessed valuation will be shown."

Since the A.R.S. § 43-145 exception applies to "other tax officials of the State" generally, the Department of Revenue may properly disclose to the county assessors such information contained in income tax returns that may be required for the proper administration of State property taxes.

Our conclusion that a county assessor is a "tax official of the state" for purposes of A.R.S. § 43-145(b)(3) is reinforced by the language of A.R.S. § 42-228A. That provision states that the annual report of rented residential property, required to be filed with the state income tax return, shall be "for use by state and local taxing authorities". This language strongly suggests that the confidentiality provisions of A.R.S. § 43-145 would not apply to the exchange of information contemplated in your letter.

The examination of tax returns and the information report discussed in A.R.S. § 42-228 is authorized as discussed above. Therefore, nothing in the confidentiality provisions of A.R.S. § 43-145 would prohibit a statement in the Income Tax Instructions detailing department policy in these matters.

Very truly yours,



JOHN A. LASOTA, JR.
Attorney General

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