



# Attorney General

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Phoenix, Arizona 85007

Robert K. Corbin

October 17, 1988

Mr. Ray Rottas  
Arizona State Treasurer  
State Capitol  
1700 West Washington  
Phoenix, Arizona 85007

Re: I88-106 (R88-024)

Dear Mr. Rottas:

You have asked whether monies received by county treasurers as a result of a superior court judgment should be held by the county treasurers until the beginning of the next fiscal year when the monies then would be applied to reduce the primary property rate. We agree that this is the appropriate method to handle these refund monies.

On November 9, 1987 the Superior Court entered a judgment in Arizona Department of Revenue vs. Sulphur Springs Valley Electric Cooperative, Inc. (Maricopa County Superior Court No. TA 746) fixing the full cash value of defendant's property and ordering the payment of additional property taxes for the years 1983, 1984, 1985 to several county treasurers. A.R.S. § 42-301(I) provides:

Any monies received from primary property taxation in excess of the sum of the amount of taxes collectible pursuant to § 42-236 and the maximum allowable levy as determined pursuant to Subsection A of this section shall be maintained in a separate fund and shall be used to reduce the primary property tax levy in the following year.

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The monies received by the county treasurers are for primary property taxation in excess of the sum of the amount of taxes collectable pursuant to A.R.S. § 42-236 and in excess of the maximal allowable levy determined under § 42-301(A). Accordingly, we conclude the § 42-301(I) requires that the monies received by the County Treasurer "be maintained in a separate fund" until the primary property tax levy is made in 1988 and at that time those monies shall be used to reduce the primary property tax levy.

Sincerely,



BOB CORBIN  
Attorney General

BC:JDR:txc