



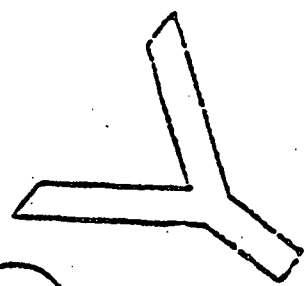
WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

November 2, 1978

FILE NO. S-1398

STATE MATTERS:

Disposition of Proceeds from
Sale of State Vehicles



Theodore D. Puckorius
Director
Department of Administrative Services
716 Stratton Building
Springfield, Illinois 62706

Dear Director Puckorius:

In opinion No. S-1082 (1976 Ill. Att'y Gen. Op. 60), I advised that the general revenue fund is the proper repository for proceeds from the sale by the Department of General Services of state-owned passenger cars. The Department of Administrative Services has taken over the duties and functions of the Department of General Services with respect to the operation of state-owned vehicles. You have asked me to reassess the conclusion reached in that opinion in light of the passage of Public Act 80-161 in 1977.

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Opinion No. S-1032 was based on the legislative directive contained in section 2 of "AN ACT in relation to the payment and disposition of moneys received by officers and employees of the State of Illinois by virtue of their office or employment". (Ill. Rev. Stat. 1977, ch. 127, par. 171.) That section mandates that the departments of State government created by The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1977, ch. 127, par. 1 et seq.):

" * * * keep in proper books a detailed itemized account of all moneys received for or on behalf of the State, * * * and, unless a different time of payment is expressly provided by law or by rules or regulations promulgated under subsection (b) of this Section, shall pay into the State treasury the gross amount of money so received without delay not later in any event than 48 hours, disregarding holidays and Sundays, after the receipt of same, * * *. All moneys so paid into the State treasury shall, unless required by some statute to be held in the State treasury in a separate or special fund, be covered into the general revenue fund into the State treasury. * * *"

Section 6c.1 of "AN ACT in relation to State finance" (Ill. Rev. Stat. 1977, ch. 127, par. 142c.1) specifies the source of funds to be paid into the State Garage Revolving Fund. It provides:

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"All fees and other money received by the Department of Administrative Services incident to the operation of State garages shall be paid into the State Garage Revolving Fund." (Emphasis added.)

In my previous opinion, I stated that money received from the public sale of State cars was not money received incident to the operation of State garages. I concluded that the proper repository for such funds was not the State Garage Revolving Fund, but the State's general revenue fund.

After that opinion was issued, the legislature passed Public Act 80-161, which amended section 67.15 of The Civil Administrative Code of Illinois. (Ill. Rev. Stat. 1977, ch. 127, par. 63b13.15.) This section, as so amended, is set out below. The language supplied by Public Act 80-161 has been underlined. Section 67.15 now gives the Department of Administrative Services the power:

"To supervise and administer all State garages used for the repair, maintenance or servicing of State-owned motor vehicles except those operated by any State college or university; and to acquire, maintain and administer the operation of the passenger cars reasonably necessary to the operations of the executive department of the State government. To this end,

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the Department of Administrative Services shall adopt regulations setting forth guidelines for the acquisition, use, maintenance and replacement of motor vehicles used by the executive department of State government and shall occupy the space and take possession of the personnel, facilities, equipment, tools and vehicles which are in the possession or under the administration of the Department of General Services for these purposes on the effective date of this amendatory Act of 1977 and shall, from time to time, acquire such further, additional and replacement facilities, space, tools and vehicles as are reasonably necessary for the purposes described in this Section."

In your letter you state that it is your understanding that prior to the amendment, section 67.15 was limited to the repair, maintenance and servicing of State vehicles, and that it was this limitation which formed the basis for my conclusion that the sale of State vehicles was not incident to the operation of a garage. Public Act 80-161 does not, however, grant the power to replace used vehicles. It merely authorizes regulations setting forth guidelines for such replacement. The power to replace facilities, tools and vehicles was contained in section 67.15 at the time it was originally enacted.

Thus, opinion No. S-1032 was not based on any lack of authority to sell used vehicles. I pointed out in that opinion that section 67.15 speaks of State garages as places for the "repair, maintenance or servicing of State-owned motor vehicles".

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I concluded from this that the sale of State vehicles was not a part of the operation of a garage. I said "the money is received only after any connection with State garages has ended."

Since Public Act 80-161 has not changed the above quoted portion of section 67.15, and since the amendment does not attempt to change the function of State garages as a place for the repair, maintenance and servicing of State cars, my conclusion that proceeds from the sale of State-owned cars are not money received incident to the operation of State garages, and thus, do not constitute a part of the State Garage Revolving Fund, is still valid. Such proceeds belong in the general revenue fund of the State treasury.

Very truly yours,

A T T O R N E Y G E N E R A L