



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

May 27, 1976

FILE NO. S-1095

REVENUE:

Errors in Mobile Home
Local Services Tax Bills.

Honorable Frank X. Yackley
State's Attorney
LaSalle County
Ottawa, Illinois 61350

Dear Mr. Yackley:

I have your letter wherein you request an opinion concerning administration of the mobile home local services tax, as imposed by the Mobile Home Local Services Tax Act.

(Ill. Rev. Stat. 1975 Supp., ch. 120, pars. 1201 et seq.)

In particular, your concern is whether there exists a procedure to be followed in case of error in tax bills issued by the county treasurer to owners of mobile homes. Under section 3 of the Mobile Home Local Services Tax Act (Ill. Rev. Stat.

Honorable Frank X. Yackley - 2.

1975 Supp., ch. 120, par. 1203), the tax for each mobile home is computed on the basis of a measurement of square footage in the mobile home. This measurement is made by the mobile home owner. You inquire as to whether there is a procedure for correction of a tax bill when the bill as computed is based on the owner's incorrect assessment or recording of the square footage in the mobile home.

Your question was submitted prior to the passage of P.A. 79-1184, which provides the answer to your inquiry. P.A. 79-1184 adds, inter alia, section 6.1 to the Mobile Home Local Services Tax Act. (Ill. Rev. Stat. 1975 Supp., ch. 120, par. 1206.1.) Section 6.1 provides, in part:

"If a tax bill is in error as to the square footage of the mobile home or as to the rate of tax, the owner may file an affidavit with the county treasurer setting forth such error. * * * Upon the filing of an affidavit as provided in this Section, the county treasurer shall issue a corrected bill and shall so indicate on his records."

Unless otherwise specifically provided in the amendatory Act, provisions of P.A. 79-1184, including section 6.1, became effective December 19, 1975. Thus it is clear that any tax bills, remaining unpaid, issued after December

Honorable Frank K. Yackley - 3.

19, 1975, can be corrected under the procedure set forth.

In addition, section 6.1 is retroactive in effect, in that the procedure can be used to correct errors in tax bills issued before December 19, 1975, if the tax remains unpaid. In construing an amendment, the apparent motive for making changes in the statute should be considered (People v. Com'rs. of Highways, 270 Ill. 141), as well as the objects to be attained by the legislation or the evils to be remedied. (Barrow v. Lence, 17 Ill. App. 2d 527.) The purpose of section 6.1 is to provide a procedure for correction of errors in tax bills. Tax legislation is normally construed narrowly with regard to retroactive application. (Phipps v. Bowers, 49 F. 2d 996, cert. den. 284 U.S. 641; Safford v. Metropolitan Life Insurance Co., 119 Ohio St. 332.) However, section 6.1 is actually a remedial provision, although it falls within an act generally amending a tax statute. Thus, section 6.1 may be considered individually with regard to retroactive effect. People ex rel. Fore v. Missouri Pacific R. Co., 342 Ill. 226.

Statutes which are remedial in their nature should be liberally construed. (Tcherepnin v. Knight, 389 U.S. 332,

Honorable Frank X. Yackley - 4.

336; Jackson v. Warren, 32 Ill. 331, 339; People v. Frank G. Heilman Co., 263 Ill. App. 514, 521, cert. den.) The general rule that statutes are prospective and are not to be construed to operate retroactively unless the language employed therein is so clear that it will admit of no other construction does not apply to statutes which relate merely to remedies and forms of procedure. (Hogan v. Bleeker, 29 Ill. 2d 181; Edenburn v. Riggins, 13 Ill. App. 3d 830; People v. Theo, 133 Ill. App. 2d 684.) Therefore, section 6.1, which is remedial, should be given retroactive effect in its operation.

Therefore, it is my opinion that section 6.1 of the Mobile Home Local Services Tax Act (Ill. Rev. Stat. 1975 Supp., ch. 120, par. 1206.1) may be applied retroactively to correct errors in unpaid tax bills issued under previous law.

If a tax bill certified for an incorrect amount has already been paid, it cannot be recovered. Voluntary payment of taxes, even those which are illegal or otherwise void, cannot be recovered unless paid under protest. (Snyderman v. Isaacs, 31 Ill. 2d 192; People ex rel. Carpentier v. Morgan Trucking Co., 16 Ill. 2d 313; The People v. McKibben, 380 Ill. 447.)

Very truly yours,

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