

**STATE OF TENNESSEE**  
**OFFICE OF THE**  
**ATTORNEY GENERAL**  
**P.O. BOX 20207**  
**NASHVILLE, TENNESSEE 37202**

April 18, 2005

Opinion No. 05-047

Proration of County Property Tax Rates to Coincide with County's Fiscal Year

**QUESTION**

Can county property tax rates be prorated to coincide with the county's fiscal year from July 1 through June 30?

**OPINION**

No. For purposes of establishing and collecting county property taxes, the tax year begins January 1 and ends December 31, thus coinciding with the calendar year. The tax rate set by the county commission during its July session applies to the entire tax year in which it is established. There is no legal authority for prorating property tax rates to coincide with the county's fiscal year beginning July 1.

**ANALYSIS**

You have asked whether county property tax rates can be prorated to match the county's fiscal year. By inquiring about proration, we understand the thrust of your question to be whether the tax rate established by the county commission in July can be applied only for the remaining portion of the calendar year, thereby leaving the tax rate for the first half of the year at the previous level.

Pursuant to the specific statutory scheme governing the assessment and taxation of property by counties, "[a]ll assessments of real property and of personal property shall be made annually and as of January 1 for the year to which the assessment applies." Tenn. Code Ann. § 67-5-504(a) (2003). On that day, property taxes "become and remain a first lien upon such property." Tenn. Code Ann. § 67-5-2101(a) (2003). Additionally, on that day, property taxes become "a personal debt of the property owner." Tenn. Code Ann. § 67-5-2101(b) (2003).

Although the assessment is deemed effective as of January 1, the county assessor has until May 20 of each tax year to complete "the assessment of all property in the county." Tenn. Code Ann. § 67-5-504(b) (2003). Prior to May 20 of each year, the assessor is required to "note upon the assessor's records the current classification and assessed valuation of all taxable property within the

assessor's jurisdiction." Tenn. Code Ann. § 67-5-508(a)(1) (2003). The assessor is required to notify "each taxpayer of any change in the classification or assessed valuation of the taxpayer's property." Tenn. Code Ann. § 67-5-508(a)(3) (2003).

While the assessor has the duty to make assessments for property tax purposes, "[i]t is the duty of the county legislative bodies," such as county commissions, "to fix the tax rates on all properties within their respective jurisdictions." Tenn. Code Ann. § 67-5-510 (2003). The county commission is required to perform this duty "on the first Monday in July, or as soon thereafter as practicable," in each tax year. *Id.* Once the county commission sets the tax rate applicable to its county, the assessor is required to calculate the amount of taxes due for each assessed property "according to and at the rate levied by" the commission, and to deliver the completed tax rolls to the county trustee. Tenn. Code Ann. § 67-5-807(c)(2) (2003).

The assessor must deliver the tax rolls to the county trustee "on or before the first Monday of October" of each tax year. Tenn. Code Ann. § 67-5-807(b) (2003). Property taxes become "due and payable" on that date. Tenn. Code Ann. § 67-5-702(a) (2003); *see also* Tenn. Code Ann. § 67-5-701(a) (2003). If unpaid, such taxes become delinquent on March 1 of the following year. Tenn. Code Ann. § 67-5-2010(a)(1) (2003).

The foregoing statutory scheme makes clear that the tax year follows the calendar year beginning on January 1, and not the fiscal year applicable to counties beginning on July 1. *See Memphis Dev. Found. v. State Bd. of Equalization*, 653 S.W.2d 266, 271 (Tenn. Ct. Ap. 1983) (observing that property tax year begins January 1); *cf.* Tenn. Code Ann. § 9-1-101(b) (1999) (setting forth general rule that county fiscal year begins on July 1 of each year and ends on following June 30). Although the county commission sets the tax rate in July shortly after the beginning of the county's fiscal year, and uses this tax rate to determine the county's budget for that fiscal year, by statute the property tax becomes effective January 1 and tracks the calendar or tax year, not the county's fiscal year that begins in July. Under this statutory scheme, the tax rate established by the county commission in July applies to the assessments that became effective on January 1 and that were completed by the assessor in May. *See* Tenn. Code Ann. § 67-5-504 (2003).

The notion that property taxes can somehow be prorated to coincide with the county's fiscal year is completely unsupported by the statutes and is antithetical to the entire statutory scheme governing the assessment and collection of property taxes. The General Assembly has enacted a body of statutes setting forth a detailed schedule governing the assessment and collection of property taxes. This schedule begins on January 1, the first day of the tax year and the day upon which a property owner's liability for property taxes arises, and culminates on October 1, the day upon which property taxes become due and payable. The entire assessment and collection cycle is based upon the tax year beginning January 1 and coincides with the calendar year, not the county's fiscal year that starts July 1.

Moreover, although not specifically raised in your request, it should be noted that the statutory scheme requiring the county commission to establish a tax rate in July for tax assessments

that arose January 1 does not implicate due process concerns. Neither principles of due process nor the prohibition on enacting ex post facto laws preclude a legislative body from modifying the tax rate for a previously imposed tax in this manner. *See, e.g., Quarty v. United States*, 170 F.3d 961, 971 (9th Cir. 1999); *Fein v. United States*, 730 F.2d 1211, 1213 (8th Cir.), *cert. denied*, 469 U.S. 858, 105 S. Ct. 188, 83 L. Ed. 2d 121 (1984); *US Bank v. United States*, 74 F. Supp. 934, 937 (D. Neb. 1999).

---

PAUL G. SUMMERS  
Attorney General

---

MICHAEL E. MOORE  
Solicitor General

---

MARY ELLEN KNACK  
Assistant Attorney General

Requested by:

The Honorable Jerome Cochran  
State Representative  
212 War Memorial Building  
Nashville, Tennessee 37243