

SUMMARY, City Billing for Use of Motor Vehicle Assessments, Opinions of the Kentucky AG

OAG 88-75 October 19, 1988

In reference to KRS 132.285, while a city may elect to use the PVA assessments for its own billing (KRS 132.285(1)), it shall use the motor vehicle assessments (KRS 132.285(3)).

132.285 Use by city of county assessment allowance for costs -- City's power in adopting procedures to use county assessment -- Appropriation.

- (1) (a) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within the city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city.
- (b) Any city making the election provided in paragraph (a) of this subsection shall notify the department and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date.
- (c) Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent (\$0.005) for each one hundred dollars (\$100) of assessment, except that sums paid shall not be:
- assessment adopted by the city according to subsection (1) of this section.
- (3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).
- (4) Notwithstanding the provisions of subsection (1) of this section, each city which

OAG 88-75: "Thus, it is our opinion that a city is not required to pay the PVA for the use of motor vehicle assessments."

OAG 89-2 January 03, 1989

Letter, John T McGarvey, City Attorney for Anchorage, to Kentucky AG. September 6, 1988

Due to the centralized collection system for ad valorem taxes on motor vehicles, added in 1984, subsection (3) of KRS 132.285 was "enacted only for the purpose of requiring cities to use the same motor vehicle tax assessment as the county and all other taxing districts which levy attacks on motor vehicles. It is obvious that if a city were allowed to make its own assessment that the centralized collection system would be more difficult to manage....The City of Anchorage believes that the Cabinet' interpretation of the statutes is erroneous in that there is no specific legislative authority for the collection of the fee and that if the statutes are interpreted to require only cities to pay the fee it would be a clear case of discrimination between taxing districts for which there is no foundation in Kentucky statutory or case law.

Letter, Jim Coffman to Nathan Goldman, OAG

November 4, 1988

The Department of Property Taxation will advise all PVAs that OAG 88-75 is applicable only to those cities that have their own assessors and that have not chosen to adopt the PVA's assessment under the provisions of KRS 132.285(1). Consequently, we will continue to expect PVAs to include the motor vehicle assessment with other tangible property in the calculation of billings to cities adopting the PVA's assessment under KRS 132.285(1)." (emphasis added)

Nathan Goldman, OAG

OAG 89-2 January 3, 1989

Subsection (3) of the statute [KRS 132.285], which mandated use of the PVA's motor vehicle assessments, was added in 1984....In addition to this, Subsection (1) was amended by adding the following words: "Except as provided in subsection (3) of this section." Subsection (1), of course, sets out the city's obligation to pay for use of the PVA's assessment. It is, therefore, clear from the language of the statute that the General Assembly intended to remove the use of the motor vehicle assessments from the payment provisions of Subsection (1).

OAG 92-69 April 24, 1992

Ross Carter, OAG to Mark Vogt, Kenton County PVA

Regarding your second question, we stated in OAG 88-75 (attached) that a city does not have to pay for motor vehicle assessments furnished under KRS 132.487.

OAG 88-75, October 19, 1988, Motor Vehicles, City Billing



**COMMONWEALTH OF KENTUCKY
OPINION OF THE ATTORNEY GENERAL**

FREDERIC J. COWAN
Attorney General

OAG 88-75

STATE CAPITOL
Frankfort 40601

October 19, 1988

**Honorable John T. McGarvey
Morgan and Pottinger
601 West Main Street
Louisville, Kentucky 40202**

Dear Mr. McGarvey:

In your letter to the Attorney General you ask whether a city is required to pay the property valuation administrator for the use of the assessments on motor vehicles.

KRS 132.285(1) requires a city that elects to use the county assessment roll on real property to pay the PVA for the use of the roll. A city, of course, may choose to make its own assessments of real property.

However, as far as motor vehicles are concerned, a city is required to use the assessment made pursuant to KRS 132.487(5). KRS 132.285(3).

KRS 132.487(5) states:

"The property valuation administrator shall, subject to the direction, instruction, and supervision of the [revenue] cabinet, have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The cabinet may provide standard valuation guidelines for use in valuation of motor vehicles."

Thus, pursuant to statute, the PVA assesses all real property in a county and all motor vehicles. A city within the county may elect to use the PVA's real property assessments for their own bills in lieu of making their own assessments. However, they are mandated to use the PVA's motor vehicle assessments.

KRS 132.285(1) states, in part:

"Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator . . . one-half of one cent for each one hundred dollars of assessment; . . . Once any city elects to use the county assessment such action cannot be revoked without notice to the revenue cabinet and the property valuation administrator six months prior to the next date as of which property is assessed for state and county taxes."

As can be seen from the above quoted portion of the statute, a city may elect to use the county assessment on real property and then elect to cease using it. If it elects to use it, it must pay for that use.

A fundamental principle of statutory construction is that the will or intent of the legislature must guide the interpretation of a statute. Hagley v. Board of Education of Nicholas County, Ky., 403 S.W.2d 28 (1966). Where there is no ambiguity in a statute, it is to be interpreted according to the intent of its authors which intent is gleaned from what was actually said, not what may have been intended but was not said. Clark v. Clark, Ky. App., 601 S.W.2d 614 (1980).

We believe that KRS 132.285 evidences an intent to require a city to pay for the use of the county real property assessments if it chooses to use them and for as long as it chooses to use them. This element of choice, we believe, is directly related to payment, as gleaned both from the words actually used and the intent derived therefrom.

In the case of the motor vehicle assessments, there is no element of choice. Furthermore, there is nothing in the language of subsection (1) of KRS 132.285 to imply that it applies to subsection (3). The two provisions are related only insofar as they pertain to a city's usage of the PVA's

Honorable John T. McGarvey
Morgan & Pottinger

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assessments. Subsection (1) allows a choice as to real property assessments and provides for payment. Subsection (3) mandates use of motor vehicle assessments and has no provision for payment.

Thus, it is our opinion that a city is not required to pay the FVA for the use of motor vehicle assessments.

Sincerely yours,

FREDERIC J. COWAN
ATTORNEY GENERAL

A handwritten signature in dark ink, appearing to read "Nathan Goldman", followed by a horizontal line extending to the right.

NATHAN GOLDMAN
ASSISTANT ATTORNEY GENERAL

OAG 89-2, January 03, 1989, City Billing for Motor Vehicle Assessments



COMMONWEALTH OF KENTUCKY
OPINION OF THE ATTORNEY GENERAL

FREDERIC J. CONAN
ATTORNEY GENERAL

OAG 89-2

STATE CAPITOL
FRANKFORT 40601

January 3, 1989

Mr. James F. Coffman
Commissioner, Department
of Property Taxation
Revenue Cabinet
Frankfort, Kentucky 40620

Dear Mr. Coffman:

In your letter to the Attorney General you state that you disagree with OAG 88-75. It is your interpretation that KRS 132.285(1) applies only to those cities that have their own assessors and, consequently, you state that you will advise PVAs to include the motor vehicle assessment with other tangible personal property in the calculation of billings to cities adopting the PVA's assessment.

You also criticize OAG 88-75 by its references to real property. You correctly point out that the PVAs assess real and personal property. We apologize for our inaccurate usage of the term "real property" in the Opinion. However, the Opinion is in no way affected by the references. If for "real property" you substitute the phrase "real and personal property, except for motor vehicles" then your concerns should be answered. However, as you can see, it does not change the conclusion of the Opinion.

Furthermore, it is directly opposite to your interpretation of KRS 132.285. OAG 88-75 opined that since a city had no choice but to use the PVA's assessments of motor vehicles, it did not have to pay for the assessments. Since cities have a choice as to whether or not to use the PVA's assessments on real and personal property, except for motor vehicles, it did have to pay if it chose to use them.

Mr. James P. Coffman
Commissioner, Department
of Property Taxation

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This conclusion is reinforced even with respect to cities that do not have their own assessors by the very language of the statute itself. Subsection (3) of the statute, which mandated use of the PVA's motor vehicle assessments, was added in 1984. Acts 1984, Chapter 34, §17. In addition to this, Subsection (1) was amended by adding the following words: "Except as provided in subsection (3) of this section" Subsection (1), of course, sets out the city's obligation to pay for use of the PVA's assessment. It is, therefore, clear from the language of the statute that the General Assembly intended to remove the use of the motor vehicle assessments from the payment provisions of Subsection (1).

Consequently, it is our opinion that a city need not include the motor vehicle assessments in its billing calculation, even if it has chosen to adopt the PVA's assessment pursuant to KRS 132.285(1).

Sincerely yours,

FREDERIC J. COWAN
ATTORNEY GENERAL



NATHAN GOLDMAN
ASSISTANT ATTORNEY GENERAL

OAG 92-69, April 14, 1992, City Billing for Motor Vehicle Assessments



COMMONWEALTH OF KENTUCKY OPINION OF THE ATTORNEY GENERAL

CHRIS GORMAN
ATTORNEY GENERAL

OAG 92-69

STATE CAPITOL
FRANKFORT 40601

April 24, 1992

Mark E. Vogt
Kenton County Property Valuation Administrator
Room 210 County Building
303 Court Street
Covington, Kentucky 41011-1679

Dear Mr. Vogt:

You have asked the following questions relative to KRS 132.285(1), which allows a property valuation administrator to bill a city for its use of assessment information generated by the PVA:

- 1) Once a city who uses the county assessment is billed by invoice from the PVA, how long may the city take before making payment to the PVA. . .30 days, 60 days, etc.?
- 2) The PVA performs many time consuming tasks, including the revaluation and district coding of city automobiles. When a city adopts use of the automobile assessments pursuant to KRS 132.487, can the PVA bill the city pursuant to KRS 132.285 (1) & (3)?

KRS 65.140 states:

(1) As used in this section, unless the context otherwise requires, "purchaser" means any city, county, or urban-county government which receives goods or services from a vendor.

(2) Unless the purchaser and vendor otherwise contract, all bills for goods or services shall be paid within thirty (30) working days of receipt of a vendor's invoice except when payment is delayed because the purchaser has made a written disapproval of improper performances or improper invoicing by the vendor or by the vendor's subcontractor.

(3) An interest penalty of one percent (1%) of any amount approved and unpaid shall be added to the amount approved for each month or fraction thereof after the thirty (30) working days which followed receipt of vendor's invoice by the purchaser.

Although the statute does not define "vendor," we see no reason why the PVA should not be considered a vendor for the purpose of billing the city for the city's tax assessments, since the PVA is providing a service for which the city is obligated to make payment. Therefore we conclude that the city must make payment within thirty working days of receipt of the invoice from the PVA.

Regarding your second question, we stated in OAG 88-75 (attached) that a city does not have to pay for motor vehicle assessments furnished under KRS 132.487.

You have also asked the following question regarding KRS 132.590:

Is the term "assessment" meant to be the Fair Cash Value assessment that the PVA has to arrive at before establishing the taxable assessment, or is the sum to be paid based on the taxable assessment?

KRS 132.590 provides that the PVA's compensation is based on the county's "assessment." "Assessment" and "valuation" are different concepts, although they are frequently confused. Valuation refers to the process of determining the value in money of specified property. Assessment refers to the determination of tax liability. *Russman v. Luckett*, Ky., 391 S.W.2d 694 (1965). In Kentucky, the state constitution (section 172) requires that property be assessed at its fair cash value; that is, Kentucky normally assesses at 100% of value. Other states may assess at a different rate, such as 50% of value.

In a few instances, property in Kentucky is not assessed at 100% of value. Exempt property of charitable institutions, for example, is not assessed at all, even though the PVA may place a valuation on it. Thus the total *assessment* for a county may differ from the total *valuation* for that county.

KRS 132.590 bases the PVA's compensation on the county's assessment, not on the county's valuation. We conclude therefore that the statute requires that the compensation be based on the taxable assessment rather than on the fair cash value of the property in the county.

Sincerely,

Chris Gorman
Attorney General



Ross T. Carter
Assistant Attorney General

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