

TO: ALL ASSESSING OFFICERS  
TAX COMMISSION PERSONNEL

No. 21 - July 22, 1982  
Opinions - Owner or buyer of property -  
mailing of tax statements;  
assessment rolls.

FROM: Emil Tahvonen, Administrator  
State Tax Commission

STATE OF MICHIGAN

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TAXATION:

Local treasurer or other tax collector--listing of name of purchaser of property, including mortgagor or land contract vendee, as taxpayer on tax statement

Local treasurer or other tax collector--mailing of tax statement to escrow agent of mortgagee or land contract vendor

TAX ASSESSOR:

Assessor--listing of name of mortgagor or land contract vendor as owner on assessment roll

Assessor--listing of name of mortgagee or land contract vendor on assessment roll

A tax assessor is required to list on the tax assessment rolls on real property subject to a mortgage the name of the mortgagor as the owner and on real property being purchased on a recorded land contract the name of the land contract vendee as the owner.

A tax assessor may also denote on the tax assessment roll on real property subject to a mortgage the name of the mortgagee and on real property being purchased on a recorded land contract the name of the land contract vendor.

A local treasurer or other tax collector must mail the tax statement for property subject to a mortgage to the mortgagor as the taxpayer. A local treasurer or other tax collector must mail the tax statement for property being purchased on a recorded land contract to the land contract vendee as the taxpayer.

A local treasurer or other tax collector may mail a copy of the tax statement to the escrow agent of the mortgagee or land contract vendor.

An agreement between private parties as to who is to be liable for the payment of real property taxes does not alter the two-fold duty of the local treasurer or tax collector to name the land contract purchaser of the property as the taxpayer on the tax statement and to mail the tax statement to such taxpayer.

Opinion No. 6085

JUL 21 1982

Honorable William A. Ryan  
State Representative  
The Capitol  
Lansing, Michigan

You have requested my opinion on several questions

involving the preparation of assessment and tax rolls and the preparation and mailing of tax statements. Your first two questions are related and will be considered together.

1. The property tax act requires the assessment/tax roll to denote the owner of the property. For property subject to a mortgage, shall the assessment/tax roll denote the purchaser of the property (mortgagor) or the lender (mortgagee)?

2. For property subject to a recorded land contract, shall the assessment/tax roll denote the seller (vendor) or the buyer (vendee)?

The General Property Tax Act, 1893 PA 206; MCLA 211.1 et seq; MSA 7.1 et seq, § 3, provides, in pertinent part:

"Real property shall be assessed in the township or place where situated, to the owner if known, and also to the occupant, if any; if the owner be not known, and there be an occupant, then to such occupant, and either or both shall be liable for the taxes on said property, and if there be no owner or occupant known, then as unknown." (Emphasis added.)

1893 PA 206, supra, § 24, which details the preparation of the assessment roll, provides, in pertinent part:

"On or before the first Monday in March in each year, the supervisor or assessor shall make and complete an assessment roll, upon which he shall set down the name and address of every person liable to be taxed in his township or assessment district, with a full description of all the real property therein liable to be taxed. If the name of the owner or occupant of any such tract or parcel of real property is known, he shall enter the name and address of such owner or occupant as in this act provided, opposite to the description thereof; in all other cases the real property described upon such roll shall be assessed as 'owner unknown'."

Thus, the Legislature has commanded property subject to taxation shall be assessed to the owner or occupant, and that the supervisor or assessor, in preparing the assessment

roll, shall set forth the name of the owner or occupant.

Detroit v State Commission, 369 Mich 508; 120 NW2d 258 (1963);

Engineering Society of Detroit v Detroit, 308 Mich 539; 14  
NW2d 79 (1944).

While 1893 PA 206, supra, fails to define the term "owner" for purposes of the Act, the meaning of the term was considered in 2 OAG, 1958, No 3165, p 30 (January 27, 1958), and it was concluded that for assessment purposes, the land contract vendee was the true owner of the property. Similarly, a person is no less the owner of property because the property is subject to a mortgage.

It is my opinion, therefore, that a tax assessor is required to list on the tax assessment rolls on real property subject to a mortgage the name of the mortgagor as the owner, and on real property being purchased on a recorded land contract the name of the land contract vendee as the owner. It is my further opinion that a tax assessor may also denote on the tax assessment roll on real property subject to a mortgage the name of the mortgagee, and on real property being purchased on a recorded land contract the name of the land contract vendor.

Your next two questions are related and will be considered together.

3. The property tax act requires a tax bill to be mailed "to each taxpayer at the taxpayer's last known address on the tax roll." For property subject to a mortgage for which an escrow account has been established, shall the tax bill be mailed to the escrow agent or the mortgagor?

4. For property subject to a recorded land contract, shall the tax bill be mailed to the vendor or the vendee?

1893 PA 206, supra, § 44(1), as last amended by 1981  
PA 41, provides, in pertinent part:

"The township treasurer or other collector shall mail to each taxpayer at the taxpayer's last known address on the tax roll, a statement showing the description of the property against which the tax is levied; and, for tax statements for levies in 1982 and each year thereafter, the total amount of the tax levy on the property . . . . The tax statement shall set forth the state equalized valuation . . . ."

The term "taxpayer" is not defined in 1893 PA 206, supra. However, it is clear that with regard to the taxation of property, the terms "taxpayer" and "owner" are synonymous.

As stated in 21 Michigan Law & Practice, Taxation, § 24, p 272, 273:

"Generally speaking, property should be taxed to the owner thereof. However, to have property taxed to him one need not have a perfect and unencumbered title but it is sufficient if he is in possession of the property with such claims and evidences of ownership as will justify the assumption that he is the owner, and where the particular taxing act is so framed as to permit assessment to be made either to the owner or occupant or to a person in possession, and in apparent charge and control of the property, the property may be taxed to such a person." (Footnotes omitted.)

See also, 84 CJS, Taxation, § 92 et seq, p 207.

As the owner of property is also the taxpayer, the tax statements described in 1893 PA 206, § 44(1), supra, must be mailed to the owner of the property.

It is my opinion, therefore, that 1893 PA 206, § 44(1), supra, requires that the local treasurer or other tax collector mail the tax statement to the owner of the property, whether the owner is a mortgagor under a mortgage or a vendee under a recorded land contract.

Your next question is:

5. Shall the treasurer mail a copy of the bill to the escrow agent of the mortgagee or land contract vendor if that party would not otherwise receive a copy of the tax bill?

As observed above, the tax statement must be mailed to the mortgagor of property as the owner-taxpayer of the property and the land contract vendee of property as the owner-taxpayer of the property. However, since there is no statutory prohibition, the local treasurer or other tax collector may also mail a copy of the tax statement to the escrow agent of the mortgagee or the land contract vendor as an interested party.

It is my opinion, therefore, that a local treasurer or tax collector may mail a copy of the tax statement to the escrow agent of the mortgagee or land contract vendor, but is not required to do so.

Your last question is:

6. Must an agreement delegating the responsibility for paying property taxes between a land contract vendor and vendee determine which party appears on the tax roll and receives the tax bill?

The purchaser of real property under a land contract (vendee) is the owner-taxpayer of the property and must be denoted as such on the assessment roll.

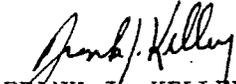
There is no doubt that private parties may enter into an agreement between themselves as to who will be liable for the taxes, but this does not alter the duty of the local treasurer to mail the tax statement to the owner-taxpayer.

As stated in 84 CJS, Taxation, § 61b, p 163:

"Assessors are not obliged to inquire into private contracts between parties, with respect to taxes, when assessing property. In the absence of a statute providing

otherwise, such contracts may be binding as between the parties, and given effect according to their terms, but such contracts do not affect the right of the sovereign or the state, unless it is in privity thereto, except in so far as the matter may be governed by statute."  
(Footnotes omitted.)

It is my opinion, therefore, that although an agreement between private parties as to who is to be liable for the payment of taxes may be binding between the parties, such an agreement may not alter the two-fold duty of the local treasurer or tax collector to name the land contract vendee of the property as the taxpayer and to mail the tax statement to the taxpayer at the taxpayer's last known address on the tax roll.

  
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