

TO: All Assessing Officers
FROM: Emil Tahvonen, Administrator
State Tax Commission

Bulletin No. 2 - January 14, 1983
Assessment Rolls
Land Contract Purchases

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

TAX ASSESSOR: Duty to list name of land contract purchaser as owner on assessment roll and provide notice of tax statement to such owner

An assessing official receiving notice of the name and address of the land contract purchaser of real property through a recorded affidavit or a land contract memorandum must make the necessary changes by listing the land contract purchaser as owner on the assessment rolls and mail any required tax statement to such owner.

Opinion No. 6107

Honorable Phil Arthurhultz
Senator
The State Capitol
Lansing, Michigan 48909

DEC 8 1982

You have requested my opinion on the following question:

May an assessing official, whose duties include making name and address changes on assessment and tax rolls, refuse to make name and address changes from an affidavit or memorandum of a land contract, thus not sending a notice of assessment change/tax notice to the land contract purchaser?

The General Property Tax Act, 1893 PA 206, § 3; MCLA 211.3; MSA 7.3, provides, in 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."

Section 24 of 1893 PA 206; MCLA 211.24; MSA 7.24, which details the preparation of the assessment roll, in pertinent part, provides:

"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, real property subject to taxation shall be assessed to the owner or occupant, and the supervisor or assessor, in preparing the assessment roll, shall set forth the name of the owner or occupant. These statutory provisions, directed to the supervisor or assessor, as public officers, are mandatory and exclude the idea of discretion. People v De La Mater, 213 Mich 167; 187 NW 57 (1921).

1893 PA 206; MCLA 211.1 et seq; MSA 7.1 et seq, does not contain a definition of "owner" for real property taxation purposes. However, that term has been subject to review by this office and in 2 OAG 1958, No 3165, p 30 (January 27, 1958), it was concluded that for tax assessment purposes the land contract purchaser is the "owner" of the property.

OAG, 1981-1982, No 6085, p _____ (July 21, 1982), concluded that when real property is being purchased on a recorded land contract, the tax assessor must list the name of the land contract purchaser as the owner on the tax assessment rolls. The same rule should apply when the assessor learns of the existence of a land contract on the property through other appropriate sources.

With respect to the mailing of tax notices, 1893 PA 206, § 44(1); MCLA 211.44(1); MSA 7.87, provides:

"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; the assessed valuation of the property; and the amount of the tax on the property."

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

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

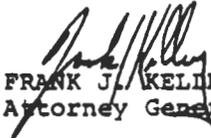
"Generally speaking, property should be taxed to the owner thereof. However, to have property taxed to him one need not have a perfect and unencumbered title but it is sufficient if he is in possession of the property with such claims and evidences of ownership as will justify the assumption that he 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.

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

It is to be noted that a recorded affidavit or memorandum of land contract is evidence that a transfer of an interest in real property has taken place. As indicated earlier, a land contract purchaser is viewed as the "owner" and the "taxpayer" of real property for assessment and taxation purposes and, as such, must be denoted on the assessment and tax rolls.

It is my opinion, therefore, that an assessing official, whose duties include making name and address changes on assessment and tax rolls, if he or she has knowledge of a land contract purchase of real property, through a recorded affidavit or a land contract memorandum, must make the necessary changes, listing the land contract purchaser as "owner" on the assessment roll and any required tax statement must be mailed to such owner.


FRANK J. KELLEY
Attorney General

NOTE ADDED BY THE STATE TAX COMMISSION:

Act 503, P.A. of 1982, effective December 31, 1982, amends Sec. 44, General Property Tax Act and allows the mailing of 1983 tax statements to the taxpayer or to the taxpayer's designated agent.