

Opinion No. 57-311

November 27, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Jr.,
Assistant Attorney General

TO: Edward M. Hartman, Director, Department of Finance and Administration,
Attention: Ernest W. Bain, Chief, Local Government Division, P. O. Box 1359, Santa Fe,
New Mexico

QUESTION

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1. Is the distribution of motor vehicle registration fees to be made on the collections of a calendar year or on the collections of a fiscal year?

"2. Does 'total assessed valuation' mean gross or net (taxable) valuation?"

"3. Is it the duty of the Local Government Division of the State Department of Finance to compute the distribution tables and submit same to the county treasurers or is this the responsibility of the county treasurer?"

CONCLUSIONS

1. Calendar year.
2. Gross valuation.
3. County treasurer.

OPINION

ANALYSIS

The requirement for registering the various classes of motor vehicles is found in § 64-3-2 and the renewal thereof stated in § 64-3-14. The latter provides, in part, that;

"Every vehicle registration under this act and every registration evidence and registration plate issued hereunder shall expire December 31st of each year and shall be renewed annually upon application by the owner and by payment of the fees required by law. Renewal shall be made on or before the second day of March of the following year."

And § 64-11-4 sets out the method to be followed in arriving at fees to be charged for periods of less than a year:

"Upon a showing satisfactory to the division that a vehicle has not been operated on the highways of this state:

(a) Prior to April 1st of the year in which registration is sought, the registration fee shall be three-fourths of the annual fee;

(b) Prior to July 1st of the year in which registration is sought, the registration fee shall be one half of the annual fee.

(c) Prior to October 1st of the year in which registration is sought, the registration fee shall be one-fourth of the annual fee.

The provisions of this section shall not apply to house trailers and registration fees for same shall be as provided in section 100 (d) (64-11-1 (d)) second paragraph, regardless of date of registration."

In both of the afore quoted provisions an annual or calendar basis is established for the payment of registration fees.

Turning next to § 64-11-12, P. P., we find, in part, as follows:

"The fees collected under the provisions of this act shall be paid over to the state treasurer not later than the close of the second business day after their receipt. Not to exceed four per cent thereof shall be covered into the motor vehicle fund, and used to defray the expense of the administration and enforcement of this act and the discharge of such other duties as may be imposed upon the division by law. The remainder thereof shall be distributed by the state treasurer on or before the tenth day of the month next after their receipt, as follows:

...

Ten percent thereof shall be paid to the county treasurer of the several counties in the state and shall be paid to the respective county treasurers in the proportion that the total amount of registration fees paid for motor vehicles in each county bears to the total amount of registration fees paid for motor vehicles in the entire state. **The respective county treasurers, upon receipt of the foregoing amounts, shall forthwith pay said amounts to incorporated municipalities under general or special laws within the county.** Payments to qualified municipalities shall be in the proportion that the total assessed valuation of a qualified municipality bears to the total assessed valuation of all the qualified municipalities within the county. Assessed valuation shall be determined by the assessed valuations of the fiscal year last completed. Amounts paid to municipalities under the provisions of this paragraph shall be used for the construction, maintenance and repair of streets within the municipality and for payment of paving

assessments against federal, state, county and municipally-owned property." (Emphasis supplied).

From the language of the afore quoted section underlined, no suggestion is found for giving consideration to "collections of a fiscal year". Distribution, then, by the "state treasurer" should be made on the basis of "collections of a calendar year", "on or before the tenth day of the month next after their (fees) receipt. . .".

Although specifically provided that distribution to municipalities shall be determined by the "assessed valuations (of municipalities) of the fiscal year last completed" (64-11-12 supra), it is pointed out that no such determination is possible under existing law. All taxable property, in keeping with § 72-2-3 and § 72-2-10 Stats., supra, is assessed on an annual basis, not fiscal.

Accordingly, it is our opinion that distribution of the herein considered fees to municipalities must be "on the collections of a calendar year".

In response to your second question concerned with the meaning of "total assessed valuation", assistance is found by reference to the following. Section 72-2-2 sets out that:

"Property, real, personal and intangible shall be assessed in proportion to its value."

And § 72-2-3 provides:

". . . it shall be the duty of the county assessor to fix the valuation for the purposes of taxation of all property contained in such declaration or of which he may otherwise obtain knowledge, at the full actual value thereof."

Section 72-2-10 further requires, in part, that:

"Such property shall be listed thereon at its actual cash value as herein defined . . ."

And finally § 72-2-20 provides that:

"In fixing the value of real property under the provisions of this act all taxing authorities shall fix the same as near as may be at the actual market value for the period for which such value is fixed."

No statutory authority is found for a "net (taxable) valuation." Assessments, as contemplated by the afore cited statutes, mean actual or market value. Further, there is no suggestion, in either the assessment statutes or the distribution statute herein considered, that assessed valuation of municipalities is determined by taking into consideration the exemptions provided for in Article 2, Chapter 72, Stats., supra.

It is, therefore, our opinion that "total assessed valuation" means the real market value, or as stated in your question, the "gross (taxable) valuation".

Distribution of the herein considered funds is specifically provided for in § 64-11-12, supra, as follows:

"The respective county treasurers, upon receipt of the foregoing amounts, shall forthwith pay said amounts to incorporated municipalities, . . ."

In keeping with this area of responsibility, it is our opinion that the Local Government Division of the State Department of Finance and Administration is not required to compute distribution tables for submission to the several county clerks. It is pointed out, however, that the aforesaid Division might well require submission of computed tables for study and advisement under the supervisory authority found in § 11-2-57.