

## OPINION NO. 68-084

**Syllabus:**

Expenses incurred by the Registrar of Motor Vehicles in the administration of the county motor vehicle tax should be considered a normal item of the budget and such expenses cannot properly be assessed against Montgomery County.

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**To: Fred Rice, Registrar, Bureau of Motor Vehicles, Columbus, Ohio**  
**By: William B. Saxbe, Attorney General, May 29, 1968**

I am in receipt of your request for my opinion, which reads in part as follows:

"\* \* \* \* \* \* \* \* \* \* \* \* \* \* \*"

"Will you kindly advise if the Registrar of Motor Vehicles may properly assess Montgomery County for this department's cost in collecting the local motor vehicle tax in that county. In addition to the cost of the forms noted, a fur-

ther cost to this department will occur in connection with additional personnel required for auditing and tax distribution purposes. Can this department assess Montgomery County for this additional cost?

" \* \* \* \* \* " \* \* \* \* \* " \* \* \* \* \* "

At the outset, it is noted that the basic statute with respect to the payment of expenses of administering the law relative to the registration and operation of motor vehicles is the state highway safety fund established pursuant to Section 4501.06, Revised Code. This section reads in part as follows:

"The taxes, fees, and fines levied, charged, or referred to in sections 4501.07, 4503.07, 4503.09, 4503.10, 4503.14, 4503.15, 4503.17, 4503.18, 4503.181 /4503.18.1/4503.182 /4503.18.2/, 4503.19, 4503.26, 4503.27, 4503.31, 4503.33, 4505.061 /4505.06.1/ 4505.09, 4505.10, 4505.12, 4505.13, 4505.14, 4507.13, 4507.23, 4507.25, 4508.05, 4509.05, 4513.41, 4513.42, 4517.04, and 4517.05 of the Revised Code, unless otherwise designated by law, shall be deposited by the treasurer of state in a fund to be known as the 'state highway safety fund', and shall, \* \* \* be used, subject to appropriation by the general assembly, for the purpose of enforcing and paying the expense of administering the law relative to the registration and operation of motor vehicles on the public roads or highways and for the purpose of enforcing and paying the expenses of administering the law to provide reimbursement for hospitals on account of the expenses for the care of indigent persons injured in motor vehicle accidents." (Emphasis added)

It is further noted that sections of the Revised Code pertaining to the annual motor vehicle license tax levied by the state (Section 4503.02, Revised Code) and the local vehicle license tax (Sections 4504.02 and 4504.09, Revised Code) are not listed in Section 4501.06, supra, although these taxes are referred to in Section 4503.10, Revised Code.

Section 4504.02, Revised Code, establishes procedures for a levy of a county motor vehicle license tax at the rate of five dollars per motor vehicle on all motor vehicles, the district of registration of which is located in the county levying the tax.

Section 4504.09, Revised Code, reads as follows:

"Any county motor vehicle license tax or any municipal motor vehicle license tax shall be paid to the registrar of motor vehicles or to a deputy registrar at the time application for registration of a motor vehicle as provided in section 4503.10 of the Revised Code is made and no certificate of registration or numbered license plates shall be issued to the owner of a motor vehicle for which any amount of county motor vehicle license tax or municipal motor vehicle license tax due thereon has not been paid. Payment of the tax shall be evidenced by a stamp on the certificate of registration by the official issuing such certificate and by issuance of a sticker, decal, or tag, the form of which and the manner of attachment to the vehicle shall be prescribed by the registrar of motor vehicles. From the sixteenth day of March to the sixteenth day of April of any given year, the owner of a motor vehicle may use such sticker, decal, or tag of either the current registration year or the next succeeding registration year.

" \* \* \* \* \* \* \* \* \* "

Section 4503.10, Revised Code, pertains to applications for registration of motor vehicles and the collection and transmission of the state license tax and the local tax. This section reads in pertinent part as follows:

"Each deputy shall, upon receipt of any application for registration, together with the license fee and any county motor vehicle license tax or municipal motor vehicle license tax levied pursuant to Chapter 4504. of the Revised Code, transmit such fee and tax, if any, in the manner provided in this section together with the original and duplicate copy of the application to the registrar. A duplicate copy of the application shall also be sent to the auditor of any county levying a county motor vehicle license tax pursuant to section 4504.02 of the Revised Code to which such application for registration is subject or to the auditor or village clerk of any municipal corporation levying a municipal motor vehicle license tax pursuant to section 4504.06 of the Revised Code to which such application for registration is subject. The registrar, subject to the approval of the director of highway safety may deposit the funds collected by such deputies in a local bank or depository to

the credit of the 'state of Ohio, department of highways safety.' \* \* \* The registrar, subject to the approval of the director and the auditor of state, may make reasonable rules and regulations necessary for the prompt transmittal of fees and for safeguarding the interests of the state and of the counties and municipal corporations levying county motor vehicle license taxes or municipal motor vehicle license taxes. \* \* \*"

Section 4501.03, Revised Code, sets forth exact guidance for the distribution of the monies received in connection with both the state and local tax. This section reads in pertinent part as follows:

"The registrar of motor vehicles shall open an account with each county and district of registration in the state. He shall pay all moneys received by him under sections 4503.02, 4503.12 and 4504.09 of the Revised Code, directly to the treasurer of state for distribution in the manner provided for in sections 4501.04, 4501.041, and 4501.042 of the Revised Code. All other moneys received by the registrar shall be deposited in the state highway safety fund established in section 4501.06 of the Revised Code and shall be subject to appropriation by the general assembly for the purposes enumerated in section 4501.06 of the Revised Code, unless otherwise provided by law." (Emphasis added)

Section 4501.04, Revised Code, provides for distribution of the state motor vehicle tax, Section 4501.041, Revised Code, pertains to the distribution of the county tax, and Section 4501.042, Revised Code, pertains to the distribution of a municipal motor vehicle license tax.

With respect to distribution of the county tax, Section 4501.041, supra, reads as follows:

"All moneys received under section 4504.09 of the Revised Code with respect to counties levying county motor vehicle license taxes pursuant to section 4504.02 of the Revised Code and paid into the state treasury under section 4501.03 of the Revised Code, shall be distributed to the respective counties levying such taxes for allocation and distribution as provided in section 4504.05 of the Revised Code." (Emphasis added)

It is observed that pursuant to Section 4501.04, supra, the Treasurer of State is required to distribute revenue from the state license tax locally after receipt of certain certificates from the commissioners of the sinking fund and no money from the state or local tax revenue is placed in the highway safety fund out of which general expenses are paid.

Notwithstanding the fact that both Section 4503.02, supra, (state license tax) and Section 4504.02, supra, (local license tax) state that one of the purposes of the tax is for the payment of administering the tax, the other sections of the Revised Code require distribution of the monies without any withholding for the payment of expenses.

It is further noted that the Treasurer of State is the custodian of the fund to be distributed to the counties and districts of registration and is required to give a bond in the sum of three hundred thousand dollars, the premium on which shall be paid by the registrar from his appropriation for defraying the expenses incident to carrying out certain chapters of the Revised Code, including Chapter 4504, Revised Code. (See Section 4501.03, supra.)

It is therefore contemplated that you will look to appropriations by the legislature for expenses incident to administering the county license tax.

The current appropriation act is contained in Amended Substitute House Bill 537, effective July 2, 1967. It is noted that the legislature, to defray costs of manufacturing and distributing state license plates, appropriated \$1,725,000 to "the state highway safety fund provided for in Section 4501.06 of the Revised Code, from undistributed revenues, as provided in Section 4503.02 of the Revised Code, including, but not limited to, revenues collected during the months of March and April, 1968; notwithstanding other provisions for the disposition of this revenue in the Revised Code."

Thus, although you are not authorized by the various sections of the Revised Code, cited above, to withhold money for the payment of expenses from the annual state license tax, the legislature does appropriate out of this money for expenses by a transfer to the state highway safety fund, and it is assumed that the legislature will in due course appropriate money for your expenses incident to collection and distribution of the county tax. Thus, although the legislature may in due course appropriate to the highway safety fund some of the county license tax money for your expenses in collecting and distributing the tax it has not, at present, done so.

Section 4504.05, Revised Code, reads as follows:

"The moneys received by a county levying

a county motor vehicle license tax shall be allocated and distributed as follows:

"(A) First, for payment of the costs and expenses incurred by the county in the enforcement and administration of the tax;

"(B) The remainder of such moneys shall be credited to funds as follows:

"(1) That part of the total amount which is in the same proportion to the total as the number of motor vehicles registered in the municipal corporations in the county to the total number of motor vehicles registered in the county in the most recent registration year ending on the fifteenth day of April shall be placed in a separate fund to be allocated and distributed as provided in section 4504.04 of the Revised Code.

"(2) The remaining portion shall be placed in the county motor vehicle license and gasoline tax fund and shall be allocated and disbursed only for the purposes specified in section 4504.02 of the Revised Code, other than paying all or part of the costs and expenses of municipal corporations in constructing, reconstructing, improving, maintaining, and repairing highways, roads, and streets designated as necessary and conducive to the orderly and efficient flow of traffic within and through the county pursuant to Section 4504.03 of the Revised Code."

A close reading of the sections of the Revised Code cited above fails to reveal any authority for the Registrar of the Bureau of Motor Vehicles to reimburse himself for expenses incurred in collecting and administering the county tax out of monies collected for the county tax either by a withholding from the county or by an assessment to the county after distribution of the money.

Section 4504.05, supra, clearly refers to costs and expenses incurred by the county and not the Registrar of Motor Vehicles, and the legislature directed the county to place the tax money in definite funds after payment of its costs and expenses. This would preclude the county from using the tax money for any purpose not specified by the legislature.

In conclusion, it is my opinion and you are so advised that expenses incurred by the Registrar of Motor Vehicles in the administration of the county motor vehicle tax should be considered a normal item of the budget and such expenses cannot properly be assessed against Montgomery County.