

OPINION NO. 90-006**Syllabus:**

1. Pursuant to R.C. 4503.10, the registration year for motor vehicles begins on the first day of January of every calendar year and ends on the thirty-first day of December in the same year.
2. If a county permissive motor vehicle license tax is adopted as an emergency measure under R.C. 4504.02, 4504.15, or 4504.16 in April of 1989 and the resolution levying the tax is certified to the Registrar of Motor Vehicles not later than July first of 1989, the tax is subject to collection by the Registrar and his deputies beginning on January 1, 1990.
3. As used in R.C. 4504.021, "the current year" means the registration (or calendar) year in which the repeal of a county permissive tax adopted as an emergency measure under R.C. 4504.02, 4504.15, or 4504.16 is approved by the electors and the result of the election is certified to the county commissioners. (1986 Op. Att'y Gen. No. 86-021, distinguished.)
4. If a county permissive motor vehicle license tax that has been adopted as an emergency measure in April of 1989 is repealed pursuant to R.C. 4504.021 in November of 1989, there is no authority to collect that tax at any time.

To: P. Randall Knece, Pickaway County Prosecuting Attorney, Circleville, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, March 9, 1990

I have before me your request for an opinion on the provisions of R.C. 4504.021, which govern the repeal of a county emergency permissive motor vehicle license tax. R.C. 4504.021 states:

The question of repeal of a county permissive tax adopted as an emergency measure pursuant to section 4504.02, 4504.15, or 4504.16 of the Revised Code may be initiated by filing with the board of elections of the county not less than seventy-five days before the general election in any year a petition requesting that an election be held on such question....

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the next general election....If a majority of the qualified electors voting on the question of repeal approve the repeal, the result of the election shall be certified immediately after the canvass by the board of elections to the county commissioners, who shall thereupon, after the current year, cease to levy the tax.

Pursuant to R.C. 3501.01(A), "[g]eneral election" means "the election held on the first Tuesday after the first Monday in each November."

You have inquired specifically about the meaning of the words "after the current year." You have asked:

Is the Statute referring to the current calendar year, or does it mean the one (1) year period from the date the emergency resolution was adopted? For example, if an emergency resolution is adopted on April 1, 1989 and repealed in the general election on November 7, 1989, would the county commissioners collect the tax for the period April 1, 1989 through December 31, 1989, or would they be entitled to collect the tax for the period April 1, 1989 through March 31, 1990?

In order to answer your question, it is helpful to outline the statutory procedure governing the collection of a county permissive motor vehicle license tax levied under R.C. 4504.02, 4504.15, or 4504.16. R.C. 4504.02 provides that a county may, by resolution of its board of county commissioners, levy an annual license tax (in addition to the tax levied by R.C. 4503.02, 4503.07, and 4503.18) upon the operation of motor vehicles on the public roads or highways. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles that are located in the county for purposes of registration, and shall be in addition to taxes under R.C. 4503.04 and 4503.16 and subject to certain reductions and exemptions. R.C. 4504.02. With respect to the effective date of the resolution, R.C. 4504.02 states:

No resolution levying a county motor vehicle license tax shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless such resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. Such emergency measure must receive an affirmative vote of all of the members of the board of commissioners, and shall state the reasons for such necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than seventy-five days after such resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it.

R.C. 4504.15 and R.C. 4504.16 contain similar language authorizing a county to levy, respectively, an additional annual license tax or a second additional annual license tax, at the rate of five dollars each.

R.C. 4504.02, R.C. 4504.15, and R.C. 4504.16 all contain authority for the resolution levying the tax to be adopted as an emergency measure. In each case, a resolution adopted as an emergency measure goes into immediate effect. This does not, however, mean that collection of the tax begins immediately. Even though the county commissioners are authorized to adopt the resolution that levies the tax, the tax is collected by the Registrar of Motor Vehicles and his deputy registrars and may be collected only in accordance with the procedures established for such collection.

A county motor vehicle license tax adopted pursuant to R.C. 4504.02, 4504.15, or 4504.16 is paid to the Registrar of Motor Vehicles or to a deputy registrar at the time application for registration of a motor vehicle is made pursuant to R.C. 4503.10 and 4503.102. R.C. 4504.09. *See generally* 1969 Op. Att'y Gen. No. 69-105. R.C. 4503.10 provides, with certain exceptions, that the owner of a motor vehicle "shall cause to be filed each year..., in the office of the registrar of motor vehicles or a deputy registrar, a written application or a preprinted registration renewal notice...for registration for the following registration year, which shall begin on the first day of January of every calendar year and end on the thirty-first day of December in the same year." It is, thus, clear that the registration year for motor vehicles is the calendar year. *See also* R.C. 4503.101 (referring to "the 1989 registration year").

Provisions governing the collection of a county permissive motor vehicle license tax by the Registrar of Motor Vehicles or a deputy registrar appear in R.C. 4504.08, which states:

A resolution, ordinance, or other measure levying a county motor vehicle license tax, municipal motor vehicle license tax, or township motor vehicle license tax shall not be applicable to motor vehicle registrations for a registration year beginning at the time established in section 4503.10 of the Revised Code unless a copy of such resolution or ordinance is certified to the registrar of motor vehicles not later than the first day of July of the year preceding that in which such registration year begins.

Thus, a resolution levying a county motor vehicle license tax must be certified to the Registrar of Motor Vehicles not later than July first of one year in order to be collected in the following calendar year. *See generally* 1977 Op. Att'y Gen. No. 77-052 and Op. No. 69-105 (considering statutory schemes that have since been modified). Even if a resolution levying a county motor vehicle license tax is adopted as an emergency measure under R.C. 4504.02, 4504.15, or 4504.16, so that the resolution goes into immediate effect, the resolution is not applicable to motor vehicle registrations for a particular registration (or calendar) year unless it has been properly certified to the Registrar of Motor Vehicles. Thus, a resolution under R.C. 4504.02, 4504.15, or 4504.16 that becomes effective as an emergency measure in a particular calendar year cannot authorize the collection of taxes during that calendar year.¹

¹ In light of the statutorily-required delay in implementing the collection of a county permissive motor vehicle license tax, *see* R.C. 4504.08, county commissioners would be well advised to consider what advantage is to be gained by adopting a resolution levying such a tax as an emergency measure under R.C. 4504.02, 4504.15, or 4504.16. A resolution adopted as an emergency measure becomes effective immediately, but is subject to repeal in the general election in any year. *See* R.C. 4504.021. In contrast, a resolution that is not an emergency measure does not become effective for thirty days, but is subject to referendum only pursuant to a petition filed during that time. *See* R.C. 305.31; R.C. 4504.02, .15, .16. *See generally* 1985 Op. Att'y Gen. No. 85-023; 1969 Op. Att'y Gen. No. 69-105.

The delay in the collection of such taxes distinguishes county motor vehicle license taxes from various other taxes that may be levied as

Pursuant to R.C. 4501.03, moneys received by the Registrar of Motor Vehicles from county motor vehicle license taxes under R.C. 4504.02, 4504.15, or 4504.16, *see* R.C. 4504.09, are paid into the state treasury to the credit of the auto registration distribution fund, for distribution as provided by statute. *See* R.C. 4501.041, 4504.05. The Treasurer of State prepares monthly vouchers for the amount due each county and transmits the vouchers to the various county auditors. R.C. 4501.03. R.C. 4501.03 specifies that all moneys received by the Registrar of Motor Vehicles under, *inter alia*, R.C. 4504.09 (including any county motor vehicle license tax moneys) "shall be distributed...within thirty days of the expiration of the registration year," with certain exceptions. *See generally* 1986 Op. Att'y Gen. No. 86-092.

It is clear under the statutory scheme outlined above that the registration year is the same as the calendar year, *see* R.C. 4503.10, and that a county motor vehicle license tax may be collected for a given registration year only if the resolution levying the tax is certified to the Registrar of Motor Vehicles on or before the first day of July of the preceding year, *see* R.C. 4504.08. You have described a situation in which an emergency resolution was adopted on April 1, 1989. That resolution became effective immediately, *see* R.C. 4504.02, 4504.15, 4504.16, and was available for certification to the Registrar of Motor Vehicles on or before July first. If the resolution was so certified, it authorized the collection of the county motor vehicle license tax beginning on the following January first. Even though the resolution became effective on April 1, 1989, there is no authority for collection of the tax except by the Registrar of Motor Vehicles and his deputies, in accordance with R.C. 4504.08. Thus, the collection of the tax could not begin prior to January 1, 1990.

The remaining question is what effect repeal of the resolution has upon collection of the tax. In the situation you have described, a county permissive tax adopted as an emergency measure under R.C. 4504.02, 4504.15, or 4504.16 is certified to the Registrar of Motor Vehicles prior to July first pursuant to R.C. 4504.08. The tax is repealed pursuant to R.C. 4504.021 in November of the same year. If the repeal becomes effective on the January first immediately following the election in which it was approved, the county permissive motor vehicle license tax will not be collected at all. This appears to be the result contemplated by the statute.

As your letter notes, R.C. 4504.021 states that, if the question of repeal is approved by the electors, the result of the election shall be certified to the county commissioners "who shall thereupon, after the current year, cease to levy the tax." The word "year" is defined generally in R.C. 1.44(B) to mean "twelve consecutive months." As used in R.C. 4504.021, however, the word "year" is clearly applicable to the registration year, for it is evident that a tax is collected on the basis of a registration or calendar year. *See, e.g.,* R.C. 4503.10. *See generally* R.C. 1.42; *Lawson v. Suwanee Fruit & Steamship Co.*, 336 U.S. 198 (1949) (declining to apply a statutory definition mechanically where a manifest incongruity would result). The word "current" is not defined for purposes of R.C. 4504.021. It appears, therefore, that it should be given its ordinary meaning. *See* R.C. 1.42. "Current" is defined to mean "now going on; now in progress [the *current* month...]." *Webster's New World Dictionary* 347 (2d college ed. 1978). Under common usage, therefore, the relevant language of R.C. 4504.021 indicates that a tax shall not be levied after the registration (or calendar) year in which the repeal of the tax is approved by the

emergency measures by resolution of the county commissioners. *See, e.g.,* R.C. 319.202 and 322.02-.021 (real property transfer tax); R.C. 324.02-.021 (utilities service tax; pursuant to R.C. 324.02 the tax shall apply to all bills for utility service "rendered subsequent to the sixtieth day after the effective date of the resolution"); R.C. 5739.021-.022 (sales tax). *See generally* 1969-1970 Ohio Laws, Book III, 2288 (Am. Sub. H.B. 531, eff. Aug. 18, 1969) (providing for the adoption as an emergency measure of a resolution levying a county motor vehicle license tax, real property transfer tax, utilities service tax, or sales tax); Op. No. 85-023; 1973 Op. Att'y Gen. No. 73-031.

electors and the result of the election is certified to the county commissioners. Since a motor vehicle tax levied for a particular registration year is collected during that registration (or calendar) year, it follows that, if a tax is repealed pursuant to R.C. 4504.021, that tax may not be collected after the calendar year in which the repeal takes place.² Thus, if a county permissive motor vehicle license tax that has been adopted as an emergency measure in April of 1989 is repealed pursuant to R.C. 4504.021 in November of 1989, there is no authority to collect that tax at any time.

The statutory scheme provides no procedure for "decertifying" a resolution that has been certified to the Registrar of Motor Vehicles. See R.C. 4504.08. It is, however, clear that the requirement of certification is merely one of notification. See Op. No. 69-105. I have been informed by representatives of the Registrar that it is their common practice to decline to collect taxes authorized by such a resolution when they are notified prior to the date upon which collection is to begin that the resolution has been repealed. The establishment of such a practice is consistent with the language of R.C. 4504.021 and with the principle that, where no procedure is established by statute, authority may be exercised in any reasonable manner. See generally *State ex rel. Hunt v. Hildebrant*, 93 Ohio St. 1, 112 N.E. 138 (1915), *aff'd*, 241 U.S. 565 (1916); *Jewett v. Valley Railway Co.*, 34 Ohio St. 601 (1878); Op. No. 86-092.

It is, therefore, my opinion, and you are hereby advised, as follows:

1. Pursuant to R.C. 4503.10, the registration year for motor vehicles begins on the first day of January of every calendar year and ends on the thirty-first day of December in the same year.
2. If a county permissive motor vehicle license tax is adopted as an emergency measure under R.C. 4504.02, 4504.15, or 4504.16 in April of 1989 and the resolution levying the tax is certified to the Registrar of Motor Vehicles not later than July first of 1989, the tax is subject to collection by the Registrar and his deputies beginning on January 1, 1990.
3. As used in R.C. 4504.021, "the current year" means the registration (or calendar) year in which the repeal of a county permissive tax adopted as an emergency measure under R.C. 4504.02, 4504.15, or 4504.16 is approved by the electors and the result of the election is certified to the county commissioners. (1986 Op. Att'y Gen. No. 86-021, distinguished.)
4. If a county permissive motor vehicle license tax that has been adopted as an emergency measure in April of 1989 is repealed pursuant to R.C. 4504.021 in November of 1989, there is no authority to collect that tax at any time.

² I am aware that a somewhat different result was reached in 1986 Op. Att'y Gen. No. 86-021. That opinion considered a voted decrease of a real property tax levy and concluded that, for purposes of R.C. 5705.261, a provision that the decrease should take effect "after the current year" applied to the current tax year, rather than the current calendar year. That result was based on the fact that the property tax bills for a given year are prepared in December of that year and taxes are collected during the following year. In that context, "current year" referred to the tax bills prepared in December that were to be paid during the following calendar year. See generally *Pittsburg, C., C. & St. L. Ry. v. County Treasurer*, 78 Ohio St. 227, 85 N.E. 49 (1908). In the case of a county permissive motor vehicle license tax, the calendar year and registration year are identical and taxes levied in one year are paid in that year, thus supporting the result set forth in this opinion.