

## Opinion No. 58-28

February 11, 1958

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

**TO:** Mr. Ernest W. Bain, Chief, Local Government Division, Department of Finance and  
Administration, Santa Fe, New Mexico

### QUESTION

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1. Is the distribution of motor Vehicle Registration fees to be made to municipalities on a calendar year or on 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 and Administration to compute the distribution tables for municipalities and submit same to the County Treasurers or is this the responsibility of the County Treasurer?

#### CONCLUSIONS

1. Fiscal Year.
2. Net valuation.
3. County Treasurer.

### OPINION

#### ANALYSIS

Reconsideration is here given the conclusions and analysis of Attorney General's Opinion No. 57-311 in view of the revised questions stated.

Section 64-11-12 (p.s.) in providing for the distribution of motor vehicle registration fees requires 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 (4%) 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: (Emphasis supplied)**

\* \* \*

Ten per cent (10%) thereof, shall be paid to the county treasurers 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, whether incorporated 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."

From the language of the first paragraph afore underlined, it is specifically provided that the state treasurer shall make distribution to the several county treasurers on or before the tenth of each month. The inquiry first above stated, however, suggests doubt as to subsequent distribution; to municipalities, cities, towns, villages and to county and district school funds.

Referring to the provisions of the fifth paragraph of Section 64-11-12 (p.s.) supra, we find that the county treasurers shall, upon receipt of the herein considered funds from the state treasurer, "**forthwith** pay said amounts to incorporated municipalities . . ." Such payment shall be made in proportion that the total assessed valuation of each municipality bears to the total valuation of all municipalities in the county. And further, "assessed valuations" are determined by such valuations of the fiscal year last completed.

Considering the assessed valuations, last mentioned, we find in keeping with Section 72-2-41 that certificates reflecting the total assessed valuations of each county shall be delivered to the State Tax Commission by the first Monday in June each year. The established values, so certified, ". . . subject to the change and verification thereafter by the state tax commission shall be taken as the basic valuation of the county for assessment or classification purposes, and all budgets and tax levies made for such county or any municipality, district or subdivision thereof, shall be based upon such basic valuations."

Thus, in keeping with the afore-provided procedure, assessed valuations are finally determined and known during preceding fiscal year. Accordingly, and again, restricting ourselves to the language of paragraph five, Section 64-11-13, supra, distribution of the

ten per centum as received after the first of July, may be made to municipalities, in keeping with assessed valuation proportion provided, on a fiscal year basis.

Next, although not specifically asked some attention should be called to the provisions of the last paragraph of Section 64-11-12 (p.s.), the text of which requires that:

"Fifteen (15) per cent thereof shall be paid over to the county treasurers of the several counties of this state and distributed between said respective counties in the proportion that the total amount of registration fees paid for vehicles owned in each county bears to the total amount of such registration fees paid for vehicles owned in the state, and the county treasurer of each county shall distribute the moneys paid to him under the provisions of this paragraph, when received, between the county and school district funds of such county and the various cities, towns and villages therein, in the same proportion that the receipts from general property taxes, other than taxes for state purposes, received by said treasurer for the year in which such distribution is to be made, are so distributed in such county between said county and school district funds, and said cities, towns and villages therein. Provided, that in the counties wherein are located cities, towns or villages incorporated, organized and operating under special act, the county treasurer of such county shall pay to the treasurers of said cities, towns or villages a proportionate amount of said money, by him to be distributed in the proportion that the receipts from general property taxes other than taxes for state purposes, received by the county treasurers and the collectors of said cities, towns or villages in the year in which said distribution is to be made. And, provided, further, that for the purpose of effecting an equitable distribution in said counties, the collectors of said cities, towns or villages operating under special act shall, on or before the first Monday in October, certify to the county treasurer, and to the state tax commission, the assessed valuation and the total tax rate in said cities, towns or villages for such year. The remainder thereof shall be credited to the state public school equalization fund."

Here we find that a different distribution is contemplated; fifteen per centum of registration fees to the several county treasurers, in turn to be redistributed to county and school district funds, and cities, towns and villages.

In the case of this last said distribution the county treasurer shall make payment, **when received**, ". . . in the same proportion that the receipts from general property taxes, . . . are so distributed in such county . . ." Reviewing briefly this procedure we find that at the same time assessed valuations are determined as afore discussed, Section 11-2-57 (p.s.) requires submission, to the local government division of the department of finance and administration, on or before the first day of June, proposed budgets for the next fiscal year; that on or before the first day of July such budgets will be examined and tentatively approved pending approval of a final budget; that after holding any necessary public hearings and making revisions in accordance with findings made, but not later than the first Monday in September, certify a final budget for each local public body.

With reference to the budgets finally approved under Section 11-2-57 (p.s.) supra, Section 72-4-4 (p.s.) provides as follows:

"It shall be the duty of the board of county commissioners of each county in the state, at a meeting held on the first Monday of September of each and every year, to make and order all levies of necessary taxes for the fiscal year as provided by law, which order shall be entered of record in their proceedings and endorsed upon the assessment roll under the seal of said board and the hand of the clerk thereof, and certified to the county assessor. Such levies shall conform to and be within the budgets or estimates for such year, as approved by the state department of finance and administration and the divisions thereof, and shall be within the limitations as to purposes and maximum rates of levy as provided by law, and shall not be altered, changed or modified after the first Monday of September, except in the correction of errors or invalid rates and then only by order of the state department of finance and administration."

Based upon these levy orders (schedules) taxes are collected and distributed.

On the face of the statutory provisions the making and ordering of levy schedules by the several county treasurers would conclude the determinations necessary for effecting distribution of the fifteen per centum as has been or will be subsequently received. However as pointed out in Attorney General's Opinion No. 58-25

"for the sake of expediting a uniform levy schedule, the afore described duty (72-4-4 (p.s.) imposed on the county boards is actually carried out by the local government division of the Department of Finance. The county treasurers receive their respective levy schedules the latter part of September, or in early October."

This procedure probably delays distribution, as is herein considered, a week or so.

In view of the foregoing it is our opinion that the distribution of Motor Vehicle Registration fees shall be made on a fiscal year basis.

In response to your second question, it is our opinion that the phrase "total assessed valuation" has reference to taxable valuation. The assessment certificates as required by Section 72-2-41 represent valuations, subject only to revisions by the state tax commission (§ 72-6-13) upon which final operating budgets, as approved. Accordingly, it would not logically follow that the exemptions provided for in Act 2, Chapter 72, Stats., supra, could have been contemplated by the language considered. Such exemptions, would of necessity be deducted prior to the treasurers submitting their assessed valuation to the tax commission in June.

Your third question is answered by reference to Section 72-4-4, Specifically, the duty of "making and ordering" tax levies is imposed on the board of county commissioners. As suggested in Attorney General's Opinion No. 57-311, however, "It is pointed out, however, that the aforesaid Division (Local Government) might well require submission

of computed tables for study and advisement under the supervisory authority found in Section 11-2-57 (p.s.).