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SPRINGFIELD

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FILE NO. S-1088

REVENUE:
Authority of Department
of Local Government Affairs
to Assess Capital Stock of
Certain Insurance Companies

Frank A. Kirk
Director
Department of Local Government Affairs
303 East Monroe Street
Springfield, Illinois 62796

Dear Mr. Kirk:

This responds to your request for an opinion as to whether the Department of Local Government Affairs has the authority to assess the capital stock of insurance companies organized under "AN ACT relating to local mutual, district, county and township insurance companies." (Ill. Rev. Stat. 1975, ch. 73, para. 204.1 et seq.) You have drawn my attention to two opinions of prior Attorneys General. Opinion No. 391, issued July 17, 1933 (1933 Ill. Att'y. Gen. Op. 514)

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advised that certain intangible property of a township mutual fire insurance company is subject to taxation. While it is possible to infer from the opinion that this property was to be assessed by the local assessor, the opinion did not specifically advise on this point. Opinion No. 916, issued October 8, 1936 (1936 Ill. Att'y. Gen. Op. 156) advised that the assessments of all mutual insurance companies came within the jurisdiction of the State Tax Commission and not the local assessor. The opinion was specifically concerned with domestic mutual companies and not the mutual companies organized under the statute cited above, or its predecessors.

Section 18 of "AN ACT to revise the law in relation to assessment of property etc." [Revenue Act of 1939] (Ill. Rev. Stat. 1975, ch. 120, par. 499) provides in part that the capital stock of companies and associations incorporated under the laws of this State shall be assessed and taxed, except as otherwise exempted. The property under discussion is not specifically exempted. (Ill. Rev. Stat. 1975, ch. 120, pars. 500 through 500.24.) Under section 18 of the Revenue Act of 1939 it is clear that the capital stock of insurance companies organized under "AN ACT relating to local mutual * * * insurance companies", supra, is subject to taxation. These

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companies are clearly companies or associations incorporated under the laws of this State. The fact that they are not stock companies is irrelevant. Capital stock refers to the aggregate property of the corporation. The People v. Commonwealth Edison Co., 367 Ill. 260.

Under section 130 of the Revenue Act of 1939 (Ill. Rev. Stat. 1975, ch. 120, par. 611) it is the duty of the Department, rather than of the local assessor, to assess their capital stock. That section provides in part:

"§ 130. The Department shall:

* * *

(6) Assess, and value, in the manner provided by law, the capital stock, including the franchise of all companies or associations incorporated under the laws of this State, except companies and associations organized for purely manufacturing and mercantile purposes, or for either of such purposes, or for the mining and sale of coal or for printing or for the publishing of newspapers or for the improving and breeding of stock or for the purpose of banking, or as mutual building, loan and homestead associations, including any of such property as may have been omitted from assessment in any year or years, or which, from defective description, has not paid any taxes for any year or years;

* * *

I, therefore, am of the opinion that the capital stock of local mutual, district, county and township insurance

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companies is subject to tax and that the Department has the
duty to assess such property for tax purposes.

Very truly yours,

A T T O R N E Y G E N E R A L