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SPRINGFIELD

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FILE NO. S- 1107

**REVENUE:**

Mobile Home Local  
Services Tax Act

Honorable Donald P. Conaway  
State's Attorney  
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Carlyle, Illinois 62231

Dear Mr. Conaway:

I have your letter wherein you ask the following questions regarding the Mobile Home Local Services Tax Act (Ill. Rev. Stat. 1975 and 1976 Supp., ch. 120, par. 1201 et seq.):

1. Does the Act apply to mobile homes which are used as club houses or for recreational purposes?
2. Is a mobile home inhabited for the purposes of the Act when it is used periodically, and such periodic use is not consecutive for two or more months?

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3. Are "double wides" considered mobile homes for the purpose of the Act?

Section 1 of the Mobile Home Local Services Tax Act (Ill. Rev. Stat. 1976 Supp., ch. 120, par. 1201) defines "mobile home" as follows:

"As used in this Act, 'mobile home' means a factory assembled structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, and placement on a temporary foundation, at which it is intended to be a permanent habitation, and situated so as to permit the occupancy thereof as a dwelling place for one or more persons, provided that any such structure resting in whole on a permanent foundation, with wheels, tongue and hitch removed at the time of registration provided for in Section 4 of this Act, shall not be construed as a 'mobile home', but shall be assessed and taxed as real property as defined by section 1 of the 'Revenue Act of 1939', filed May 17, 1939, as amended. Mobile homes owned by a corporation or partnership and on which personal property taxes are paid as required under the Revenue Act of 1939 shall not be subject to this tax. Mobile homes located on a dealer's lot for resale purposes or as an office shall not be subject to this tax."

By its own terms, the purview of the Act is limited to structures designed and intended for permanent habitation and situated so as to permit occupancy as a dwelling place for one or more persons. I have previously advised that

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the Act is limited to those mobile homes which are used as permanent residences. (1974 Ill. Att'y. Gen. Op. 273; Opinion No. S-1042, issued January 26, 1976.) Units which are used primarily as club houses or for recreational purposes are not used by individuals as permanent residences. Therefore, such units are not within the definition of "mobile home" quoted above and are not subject to the mobile home local services tax.

In response to your second question, the Mobile Home Local Services Tax Act, by its express terms, applies only to inhabited mobile homes. (Ill. Rev. Stat. 1976 Supp., ch. 120, par. 1203; Berry v. Costello, 62 Ill. 2d 342.) In Opinion No. S-1042, I explained that a mobile home is inhabited when it is occupied by a person who intends to use the mobile home as a residence for a period of two or more months. Two elements are necessary to create a residence: (1) bodily presence in that place, and (2) the intention of remaining in that place. (Hughes v. Illinois Public Aid Commission, 2 Ill. 2d 374.) Opinion No. S-1042 concluded that a person must intend to remain in the mobile home at least two months in order for the home to be taxable.

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When a residence is established, a temporary departure therefrom with an intention to retain that residence and to return to it is not an abandonment or forfeiture of that residence. (Park v. Hood, 374 Ill. 36.) The controlling factor in determining if residence has been lost or retained is the person's intention. (Coffey v. Board of Election Com'rs., 375 Ill. 385.) The decisive issue in your second question is thus the intention of the person or persons residing in the mobile home. In order for the local services tax to apply, the residents of the mobile home must intend to use the unit as their home for two months. The fact that they depart from the mobile home does not destroy their residency there as long as they intend to continue to use the mobile home as their residence. Therefore, the answer to your second question is that a mobile home can be inhabited even though it is not continuously occupied for two months. A mobile home is inhabited when it is occupied, for however short a time, by a person who intends to use the mobile home as a dwelling for two or more months.

With regard to your third question, section 1 of the Mobile Home Local Services Tax Act provides that "any

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structure resting in whole on a permanent foundation, with wheels, tongue and hitch removed at the time of registration provided for in section 4 of this Act, shall not be construed as a 'mobile home'." "Double wides" normally refer to a type of unit consisting of two elongated sections which are combined side by side at the home site. It is my understanding that in most cases double wides rest in whole on permanent foundations, with wheels, tongues and hitches removed and would therefore not be considered "mobile homes" under the Act. However, the facts of each situation must be studied before deciding whether a particular double wide is within the definition of "mobile home" in section 1 of the Act.

Very truly yours,

A T T O R N E Y   G E N E R A L