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SPRINGFIELD

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FILE NO. S-1042

TAXATION:
Privilege Tax on Mobile Homes

Honorable Patrick J. Corcoran
State's Attorney of Hancock County
Carthage, Illinois 62321

Dear Mr. Corcoran:

I have your letter in which you ask whether a mobile home must be inhabited and owned before it is subject to the privilege tax and registration provided for in the Mobile Home Local Services Tax Act. (Ill. Rev. Stat. 1973, ch. 120, para. 1201 et seq. as amended by P.A. 79-1184.) You also ask for a definition of the term "inhabited".

Section 3 of the Mobile Home Local Services Tax Act (Ill. Rev. Stat. 1973, ch. 120, par. 1203 as amended by P.A. 79-1184) provides:

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"* * * [T]he owner of each inhabited mobile home shall pay to the county treasurer of the county in which such mobile home is located an annual tax * * *" (emphasis added.)

It is my opinion that the above section plainly requires that a mobile home be inhabited before its owner is liable for the tax. The plain meaning of an unambiguous statute can be neither restricted nor enlarged. (Bovinette v. City of Mascoutah, 55 Ill. 2d 129.) If the statute applied to uninhabited as well as inhabited mobile homes, the latter term in the statute would be superfluous, yet it is a basic rule of statutory construction that effect must be given to every word, clause and sentence of a statute, if possible. Doubler v. Doubler, 412 Ill. 597.

Section 4 of the Act provides:

"The owner of each inhabited mobile home * * * shall * * * file a mobile home registration form * * *. The owner of a mobile home not located in a mobile home park shall * * * file * * * a registration * * *. The registration shall be signed by the owner or occupant of the mobile home. * * *" (emphasis added.) (Ill. Rev. Stat. 1973, ch. 120, par. 1204.)

It is my opinion that the above section, like section 3 of

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the Act, plainly requires that the mobile home be inhabited before its registration provisions are applicable. In addition, section 4 clearly places the duty to file the registration form on the owner, although it permits the occupant of the mobile home to sign the form. The same reasoning and authorities heretofore set forth are applicable.

You have also asked for a definition of the term "inhabited" as used in the Mobile Home Local Services Tax Act. Words employed in a statute are required to be given their plain and ordinary meaning unless to do so would defeat the intent of the legislature. (Droste v. Kerner, 34 Ill. 2d 495.) Webster's Third New International Dictionary defines "inhabited" as "having inhabitants". The same source defines "inhabitant" as "a person who dwells or resides permanently in a place as distinguished from a transient lodger or visitor". Therefore, according to the ordinary meaning of the term, a mobile home is "inhabited" when it is occupied by a person who uses the mobile home as a permanent residence.

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The ordinary meaning of "inhabited" conforms to the purpose of the mobile home privilege tax. In upholding the constitutionality of the tax, the Illinois Supreme Court explained that it is a reasonable means of defraying the cost of local governmental services. (Berry v. Costello, No. 47598, ___ Ill. 2d ___.) Persons who use mobile homes as their permanent residences necessarily benefit from local governmental services. The purpose of the mobile home privilege tax is to cover the cost of these services. Imposing the tax on owners of mobile homes not used as permanent residences would result in paying local governmental units for services that were not delivered. The purpose of the mobile home privilege tax requires that the tax be imposed on owners of mobile homes used as permanent residences.

Public Act 79-1184 clarifies when a residency becomes permanent for the purposes of the Mobile Home Local Services Tax Act by adding section 2.1 to the Act. That section defines "permanent habitation" as follows:

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"As used in this Act 'permanent habitation' means available for habitation for a period of 2 or more months."

A unit is taxable as a mobile home only when it is intended to be a permanent habitation. (Ill. Rev. Stat. 1973, ch. 120, par. 1201 as amended by P.A. 79-1164.) The definition of "permanent habitation" leads to the conclusion that an inhabited mobile home is one that is occupied with an intent to use it as a dwelling for a period of two or more months. It is, therefore, my opinion 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.

Very truly yours,

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