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**SPRINGFIELD**

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FILE NO. S-1493

REVENUE:  
Review of Capital Stock Assessments

Honorable Thomas J. Fahey  
State's Attorney  
County of Vermilion  
Courthouse  
7 North Vermilion Street  
Danville, Illinois 61832

Dear Mr. Fahey:

I have your letter wherein you inquire whether a county supervisor of assessments has the authority, pursuant to section 45 of the Revenue Act of 1939 (Ill. Rev. Stat. 1979, ch. 120, par. 526), to issue a certificate of error on an assessment of capital stock made by the Illinois Department of Local Government Affairs pursuant to section 17 of the Revenue Act of 1939 (Ill. Rev. Stat. 1979, ch. 120, par. 498). For the reasons hereinafter stated, it is my opinion that a supervisor of assessments does not have such authority.

The assessments in question were made by the Depart-

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ment of Local Government Affairs between 1972 and 1977, prior to the decision of the Illinois Supreme Court in Client Follow-Up Co. et al. v. Hynes (1979), 75 Ill. 2d 108, which held that the abolition of personal property taxes by section 5 of article IX of the Illinois Constitution of 1970 was self-executing; and prior to the transfer of the assessment functions of the Department of Local Government Affairs to the Department of Revenue by Executive Order Number 3, effective October 1, 1979.

Section 17 of the Act provides that the Department shall "assess the capital stock, including the franchise of all companies or associations incorporated under the laws of this State". Section 137 of the Act (Ill. Rev. Stat. 120, par. 618), which relates to the review of such assessments, provides as follows:

"Upon the completion of the original assessments to be made by the Department, it shall publish a full and complete list of such assessments in the State 'official newspaper.' Any person or corporation feeling aggrieved by any such assessment may, within ten days of the date of publication of such 'official newspaper' containing such list, apply to the Department for a review and correction of the assessment complained of. Upon such review the Department may make such correction, if any, therein as may be just and right.

An application for a hearing may be filed by any party to a proceeding before the Department where review has been made upon application, and notice has been given of the Department's

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decision. Such application for hearing shall be in writing and shall be filed with the Department within 20 days after said decision has been rendered and notice thereof given. Petitions for hearing shall state concisely the mistakes alleged to have been made or the new evidence to be presented."

Thus, the Department, upon the request of the taxpayer, may review its assessment and make any corrections. After that, final administrative decisions of the Department are, pursuant to section 138 of the Act (Ill. Rev. Stat. 1979, ch. 120, par. 619), reviewable under the provisions of the Administrative Review Act (Ill. Rev. Stat. 1979, ch. 110, par. 264 et seq.).

It is clear that assessments made by the Department of Local Government Affairs or its successor, the Department of Revenue, are subject to review only in accordance with sections 137 and 138 of the Act. There is no statutory authority for the issuance of a certificate of error by local authorities with respect to an assessment made by the appropriate State department.

The language of section 45 of the Act providing that a certificate of error shall issue when a supervisor of assessments shall discover an error or mistake in an assessment, implies a discovery by local government officials of an error or mistake in their own process of assessment. The language was clearly not intended to grant local officials power to review assessments made by the State department.

Very truly yours,

A T T O R N E Y   G E N E R A L