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OFFICE OF THE ATTORNEY GENERAL

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STATE OF ALABAMA

AUG 20 1985

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Honorable Curt Head
Tax Assessor, Dale County
P. O. Box 866
Ozark, Alabama 36361

Motor Vehicles - Licenses and
Registration - All Terrain
Vehicles

Tax assessor may not refuse to
assess an all terrain vehicle.

Dear Mr. Head:

You have requested an opinion from this office
respecting the following:

"Whether this office should, if faced
with an application, assess the 'three-
wheel all terrain vehicles.'"

Section 40-11-1, Code of Alabama 1975, provides, in
pertinent part:

"The subjects of taxation...shall be as
follows:...

"(5) All...motor cars, automobiles,
trucks, buses, tractors, motorcycles and
other motor vehicles and bicycles..."
(emphasis supplied)

Section 32-6-51, Code of Alabama 1975, provides that each
motor vehicle operated on the city streets and public
highways of this state must have attached to its rear a
license tag as prescribed by the Department of Revenue.

Section 40-12-253, Code, supra, provides in pertinent
part:

"...no license shall be issued to operate a motor vehicle on the public highways of this state...until the ad valorem tax on such vehicle shall have been paid... Every person who desires to operate a motor vehicle on the public highways of Alabama shall first return such motor vehicle for ad valorem taxation to the tax assessor...[who] shall deliver to the person who makes the return...a certificate of assessment..."

The provisions of §40-12-253 are mandatory and do not provide the tax assessor with any discretion. In other words, whenever any person presents his motor vehicle for assessment, then the tax assessor must issue a certificate of assessment upon which the tax collector will collect the ad valorem tax due on the motor vehicle.

The assessment of a motor vehicle for ad valorem taxation prior to the issuance of a motor vehicle license plate constitutes a ministerial act. No personal liability attaches to the proper performance of a ministerial act. Hutchinson v. Board of Trustees of Univ. of Alabama, 47 Ala.App. 460, 256 So.2d 279 (1971); Aland v. Graham, 287 Ala. 226, 250 So.2d 677 (1971); Hickman v. Dothan City Board of Education, 421 So.2d 1257 (Ala. 1982).

We wish to note that the ad valorem tax is levied under the taxing powers of the state as a purely revenue matter, and is not an exercise of the police powers of the state.

I trust that the foregoing answers your questions. If we can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

CHARLES A. GRADDICK
Attorney General
By-



PHILIP C. DAVIS
Assistant Attorney General