

MOTOR VEHICLE MUNICIPAL TAX: Municipal tax for motor vehicles can not exceed the amount authorized for 1933. Furthermore, the amount authorized for 1933 should not exceed 1/3 of the aggregate amount of state registration fees as prescribed in Sec. 7762, R. S. Mo. 1929.

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May 22, 1935.



Hon. F. D. Wilkins,  
City Attorney,  
Louisiana, Missouri.

Dear Sir:

We wish to acknowledge receipt of your letter of May 8th, 1935, as follows:

"There is an apparent conflict in the Statutes of this State with reference to the authority of a Municipality to charge a license tax on motor vehicles within said Municipalities for municipal purposes.

"Section 7762 Revised Statutes of Missouri, 1929 limits the amount of the collection by Municipalities to one-third of the amount collected by the State.

"Section 7780, which, so far as I have been able to find has never been repealed authorizing such Municipalities to collect a license tax for municipal purposes, not exceeding one-half of the amount collected by the State.

"Section 7762 Revised Statutes of Missouri, 1929 was repealed by the Extra Session 1933 and 1934 (see laws 1933-1934, page 99-100). The laws of 1933-1934 with reference to the authorities of Municipalities to license and tax automobiles and motor vehicles provides a license tax may be levied on motor vehicles by Municipalities of this State,

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'provided that the fees charged by Municipalities for said license shall not exceed the amount authorized therefor by said Municipalities during the year 1933.'

"What we want to know is, is the City authorized to charge one-third or one-half of the amount charged by the State.

"No doubt you have been asked to pass upon this before and have given an opinion, and we will appreciate a copy of same."

It is the opinion of this office that license taxes shall not exceed the amount authorized therefor by such municipalities during the year of 1933. Furthermore, such authorization for 1933 should not have exceeded one-third of the aggregate amount of the state registration fee, as specified in Section 7762, R. S. Mo. 1929.

The above two sections referred to in your letter, namely, Sections 7762 and 7780, R. S. Mo. 1929, are in conflict only as to the amount such municipality may charge for a license tax.

Section 7780 was originally enacted in the first Extra Session Laws 1921, as shown on page 100, approved July 30, 1921. Section 7762 was approved by a vote of the people in November, 1924, as shown on page 288 in Laws of 1925, thereby superseding the above law. Section 19, page 290, Laws of 1925, contains a provision as follows:

"All laws or parts of laws contrary to, inconsistent with, or in conflict with any of the provisions of this act are hereby repealed."

It is a well settled rule of construction that when such a provision as enacted above is included in an act, all such conflicting provisions in any law are repealed, only insofar as they conflict.

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Corpus Juris, Vol. 59, Sec. 514, page 910, provides in part:

"Where two legislative acts are repugnant to, or in conflict with, each other, the one last passed, being the latest expression of the legislative will, will, although it contains no repealing clause, govern, control, or prevail, so as to supersede and impliedly repeal the earlier act to the extent of the repugnancy, provided the conflict, inconsistency, or repugnancy is of the character and degree requisite to the application of the rule."

In State of Missouri ex rel. Maguire v. State Auditor, 47 Mo. 32, the court said:

"The construction has not said that when an act is passed inconsistent with a preceding one, so that both cannot stand, the latter one shall be void and the earlier one shall prevail, but has left the law as it always has been, viz: That when two statutes are inconsistent and repugnant, the one last enacted shall be considered in force. This must be so in the nature of things, for the last enactment is the latest expression of the legislative will, and must prevail, unless it contains some inherent vice that prevents it becoming a statute."

From the above remarks, we are of the opinion that Section 7762, R. S. Mo. 1929, requiring municipalities not to charge a license tax exceeding one-third of the aggregate amount of state registration, automatically repeals that particular provision of Section 7780 allowing the tax to be one-half of the aggregate amount of state registration, as this is in direct conflict, and furthermore supersedes Section 7780.

Hon. F. D. Wilkins

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Section 7761, page 99 of Laws of Missouri Extra Session 1933-34, in part provides:

"License taxes may be levied on motor vehicles by municipalities of this state provided that the fees charged by municipalities for said license shall not exceed the amount authorized therefor by said municipalities during the year 1933."

Therefore, it is the opinion of this Department that municipalities can only levy a license tax on motor vehicles within said municipalities not to exceed the amount authorized for 1933. Furthermore, the amount authorized by said municipalities during the year 1933 should not have exceeded one-third of the aggregate amount of state registration fees as prescribed in Sections 7761-62, R. S. Mo. 1929.

Yours very truly,

James L. HornBostel,  
Assistant Attorney General.

APPROVED:

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ROY MCKITTRICK,  
Attorney General.

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