This opinion represents the views of the Office of the State Comptroller at the time it was rendered. The opinion may no longer represent those views if, among other things, there have been subsequent court cases or statutory amendments that bear on the issues discussed in the opinion.

LIBRARIES -- Taxes (authority of school district to charge public library with proportionate share of tax refund)

REAL PROPERTY TAXES AND ASSESSMENTS -- Refunds and Chargebacks (authority of school district to charge public library with proportionate share of tax refund)

SCHOOL DISTRICTS -- Library appropriation (authority to charge public library with proportionate share of tax refund)

EDUCATION LAW, §§255(1), 259(1); REAL PROPERTY TAX LAW, §§556(6)(a), 726(1)(c), 734(1): A school district making a real property tax refund attributable to either an administrative correction of an error on a tax roll or a court ordered assessment reduction may not recover from the school district public library an amount equal to the proportionate reduction of taxes levied for library purposes.

This is in response to your request that we reconsider two prior opinions of this Office in which we concluded that a school district making a real property tax refund attributable to either an administrative correction of an error on the tax roll (Real Property Tax Law, §550 et seq.) or a court ordered assessment reduction (Real Property Tax Law, §700 et seq.) may not recover from the school district public library an amount equal to the proportionate reduction of taxes levied for library purposes (1979 Opns St Comp No. 79-103, unreported; 1975 Opns St Comp No. 75-1210, unreported). We reached this conclusion because of the absence of statutory authority for a school district to charge back to a public library any portion of such real property tax refunds.

You ask that we reconsider these opinions for three reasons: there is no statute which expressly prohibits a school district from charging back a portion of a tax refund to a school district public library; the Education Law does not expressly authorize a school district to expend funds for a refund library taxes; and permitting the chargeback is more equitable. For the reasons set forth below, we continue to adhere to the view set forth in Opn Nos. 79-103 and 75-1210, supra.

School districts possess only those powers delegated by statute or necessarily and reasonably implied therefrom (Flaminio v Board of Education of the Cleveland Hill Union Free School District, 97 Misc 2d 722, 412 NYS2d 100). The powers of a school district in relation to a public library are set forth generally in article 5 of the Education Law (§201 et seq). Article 5 of the Education Law provides that the electors of a school district may authorize the establishment of a public library and may vote appropriations and taxes for library purposes (Education Law, §§255[1], 259[1]). Appropriations for library purposes must be submitted to the voters of a school district in a separate resolution and not as part of the appropriation of necessary funds to meet the estimated expenditures of the school district (id.).
Taxes for library purposes must be levied and collected in the same manner as other school taxes (id.; see also Bean v Board of Education of Union Free School District No. 17, Town of Oyster Bay, Nassau County, 71 Misc 2d 747, 336 NYS2d 703).

The levy and collection of school taxes is governed generally by article 13 of the Real Property Tax Law. Insofar as here relevant, article 13 requires school taxes to be levied by the "school authorities" of a school district (see Real Property Tax Law, §§1306[1], [2]; cf. Real Property Tax Law, §102[13], defining the term "school authorities"). The taxes are levied upon the taxable real property within the school district (see Real Property Tax Law, §1308), as assessed on the appropriate city, town and county assessment roll or portion thereof (see Real Property Tax Law, §1302[1], [2]). When the school authorities levy a tax for purposes of a public library, the amount of the tax must be separately stated on the school tax bill (see Real Property Tax Law, §§1322[1], 1324, as amended by L 1990, ch 7).

Section 556(1)(a) of the Real Property Tax Law authorizes an "appropriate tax levying body" to refund taxes attributable to certain "clerical errors", "errors in essential fact" and "unlawful entries" appearing on the tax roll. Section 556(6)(a) provides that the amount of any tax refunded shall be a charge upon each "municipal corporation" or "special district" to the extent any taxes of the municipal corporation or special district are refunded.

The term "tax levying body" as used in section 556(1)(a) generally includes the school authorities of a school district (see Real Property Tax Law, §550[5], see also Real Property Tax Law, §§ 102[10], [13], 1306; cf. Walker v Assessors of Nassau County, 66 NY2d 702, 496 NYS2d 419, reargument denied 66 NY2d 1036, 499 NYS2d 103, pertaining to school districts in Nassau County). Since the school authorities levy taxes for a school district public library on the taxable real property within the district (see Education Law, §255[1]; Real Property Tax Law, §§1306, 1308), it is our opinion that the school authorities are the "appropriate" tax levying body to refund taxes imposed for the public library.

As noted, pursuant to section 556(6)(a), refunds of taxes are a charge upon each "municipal corporation" and "special district" to the extent that its taxes are refunded. A school district is a "municipal corporation" (Real Property Tax Law, §102[10]), but a school district public library is neither a "municipal corporation" nor a "special district" (id.; Real Property Tax Law, §102[16]). Therefore, section 556(6)(a) requires taxes refunded by the school authorities to be a school district charge and does not authorize the school authorities to charge back any portion of the refund to a school district public library (cf. Real Property Tax Law, §556[6][b], authorizing releived school taxes to be charged back to school districts).

Sections 726 and 734 of the Real Property Tax Law establish procedures for the payment of tax refunds required as a result of court ordered assessment reductions and small claims assessment review proceedings. Section 726(1)(c) provides that any final order in a proceeding under article 7 of the Real Property Tax Law which orders or directs the correction or striking of an assessment appearing on the portion of a city, town or county assessment roll applicable to a school district is binding on the school district. Section 726(1)(c) also provides that any amount of "taxes of the school district" at any time collected upon the assessment in excess of the amount which would have been paid had the assessment been made as determined by the court order must be refunded with interest by the school authorities of the school.
district. With certain exceptions not here relevant, section 734(1) provides that refunds resulting from small claims assessment review proceedings must be made in the same manner as provided for in section 726.

Since taxes for a school district public library are levied by the school authorities of a school district on the taxable real property within the district, it is our opinion that the public library taxes are "taxes of the school district" within the meaning of section 726(1)(c). Therefore, sections 726(1)(c) and 734(1) require a refund of taxes by the school authorities of a school district to include a refund of taxes imposed for the school district public library. These sections, however, do not authorize the school authorities to charge back any portion of the refund to the school district public library (cf. Real Property Tax Law, §726[1][a] and [b], authorizing chargebacks of portions of tax refunds made by certain other entities).

In reaching these conclusions, we are mindful of the 1990 amendment to the Real Property Tax Law, cited above, which requires taxes for school district public library purposes to be separately stated on school tax bills (L 1990, ch 7). This legislation was enacted because "[o]ften, the amount of the school district tax is misinterpreted by taxpayers because the library tax has been added", and "[d]istinct listing of the two [tax] rates would clarify that they are the result of separate budgets" (1990 NYS Legislative Annual, p. 3). While a proportionate chargeback of school district tax refunds to school district public libraries may be consistent with the overall philosophy of this legislation, there does not appear to have been any intent to affect tax refund procedures. Therefore, we do not construe the 1990 legislation as conferring implied authority on school districts to charge back portions of tax refunds to school district public libraries.

Finally, with respect to whether this conclusion results in any inequity, we recognize that, as a rule, statutes should not be construed in a manner which will work hardship or injustice (see, e.g., Freeman v Kiamesha Concord Inc., 76 Misc 2d 915, 351 NYS2d 541; McKinney's Statutes, §146). In this regard, we note that a literal reading of sections 556, 726 and 734 of the Real Property Tax Law requires the cost of refunds of taxes levied for library purposes to be borne by the taxpayers in the entire school district. However, this result would not change if the statutes were construed as permitting school districts to charge back portions of tax refunds to school district public libraries (see Education Law, §259[1]). The only difference that such a broad construction would make is that the cost of such refunds would generally be included in the appropriation for library purposes and, hence, reflected in the separate statement of library taxes on school tax bills. In our view, however, this is not a sufficient basis for concluding that sections 556, 726 and 734 necessarily and reasonably confer implied authority on school districts to make such chargebacks.

Accordingly, we continue to believe that a school district ordered to make a real property tax refund may not recover from the school district public library an amount equal to the proportionate reduction of taxes levied for library purposes.

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