

October 15, 2002

Dear Mayor :

This letter is in response to a question from your town about the disposition of proceeds from the sale of certain confiscated vehicles. The question specifically deals with the proceeds from the sale of vehicles seized for Driving Under the Influence or Driving on a Revoked Driver's License violations. State laws, TCA § 55-10-404(k) and § 55-50-504(h), provide for the seizure of a violator's vehicle under certain conditions.

TCA § 40-33-211 defines the disposition of revenues derived from the sale of those vehicles. The revenue from the sale is to be retained by the town for the duration of the fiscal year and be used to *compensate the town for reasonable and direct expenses involved in the confiscation, towing, storage, and sale of the forfeited vehicle*. Any remaining revenue shall be transmitted to the department of mental health no later than June 30 of each fiscal year. The statute also states that all expenses claimed by the town shall be subject to audit and review by the comptroller of the treasury for the purpose of determining that expenses claimed by the town are direct and reasonable. The term "direct" is very important in the statute.

As I understand the current question, at least one private business has offered to tow and store seized vehicles. The business person would charge the city a flat fee for towing and for the first ten days of storage. At the end of the fiscal year, any excess funds would be given to the business to offset the cost of long-term storage and allow the owner to keep the property up. Such a transfer of funds to the private business would not be a "direct" and reasonable expense. The town can only pay direct and reasonable costs billed for each car, and the payment should take place after the sale of the vehicle. Direct and reasonable costs do not include any long-term maintenance or upkeep of the property. The business owner can charge a reasonable storage bill for each day the car is stored in his/her facility, and the bill can be paid for from the proceeds of the sale.

If you have any further questions, or if I can ever be of assistance, please do not hesitate to call.

Sincerely,

Rex Barton  
Police Management Consultant