

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

March 16, 1988

SUBJECT: Taxation & Revenue - Interest On Refunds Of  
Property Taxes.

SYLLABUS: Interest is not to be paid on refunds of tax  
payments except where provided by statute. Interest is not  
payable on the refunds of property taxes made pursuant to  
Sections 12-47-70, et seq. or Section 12-47-420.

TO: Honorable Clyde L. Nichols  
York County Treasurer/Finance Director

FROM: Joe L. Allen, Jr. *JL*  
Chief Deputy Attorney General

QUESTION: Is interest to be paid on a refund of property  
taxes made under authority of Sections 12-47-70, et seq. or  
Section 12-47-420?

APPLICABLE LAW: Sections 12-47-70 and 12-47-420, South  
Carolina Code of Laws, 1976, as amended.

DISCUSSION:

The taxes here involved were paid because of an overvalua-  
tion of property. Upon discovery, the tax paid because of  
the overvaluation was or is to be refunded under one of the  
above statutes. No interest is however payable on the over-  
payments. In Monarch Mills v. South Carolina Tax Commis-  
sion, 149 S.C. 219, 146 S.E. 870, the court favorably quoted  
from 15 R.C.L. 17 as follows:

"It is well settled, both as to princi-  
ple and authority, that a state cannot  
be held to the payment of interest on  
its debts unless bound by an act of the  
Legislature or by a lawful contract . .  
. "

See also Colonial Life & Accident Insurance Co. v. South  
Carolina Tax Commission, 233 S.C. 129, 103 S.E.2d 908, where  
the court held that:

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" . . . respondent [Colonial] is entitled to refund of the amount of such license tax and interest thereon as it paid for that year. It is not entitled to interest on the amount so paid by it, there being no statute permitting recovery of interest in such cases."

The General Assembly, in 1962, enacted legislation providing for the payment of interest on tax recoveries in limited circumstances. The same is codified as Section 12-49-60, however, the payment of interest is limited to taxes administered by the South Carolina Tax Commission and recovered through litigation. We, however, find no statutory authority for the payment of interest on refunds as here involved and hence none can be paid.

CONCLUSION:

Interest is not to be paid on refund tax payments except where provided by statute. Interest is not payable on the refund of property taxes made pursuant to Sections 12-47-70, et seq., or Section 12-47-420.

JLAJr/jws