

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 86-1002 December 15, 1986

SUBJECT: Taxation & Revenue - Application of tax payments by a County Treasurer.

SYLLABUS: The County Treasurer or Tax Collector must apply tax payments for real property taxes to the oldest delinquency of real property taxes owed by the person for whom the payment is made. Payments of personal property taxes must likewise be applied to the oldest delinquency of personal property taxes.

TO: Honorable David M. Beasley
Member, House of Representatives

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

QUESTION: Is a County Treasurer required to apply a property tax payment to the oldest delinquency of the payor?

APPLICABLE LAW: Section 3, of Act 425, Acts of 1986.

DISCUSSION:

The language of the statute is that:

Any taxes paid by a delinquent taxpayer to a county treasurer or tax collector must be applied to the oldest chronological delinquency of the taxpayer unless the check or money order tendered by the taxpayer provides otherwise in which case it must be returned to the taxpayer together with a statement that the check or money order cannot be accepted due to the earlier delinquency. Personal property taxes tendered must be applied to personal property tax delinquencies and real property taxes tendered must be applied to real property tax delinquencies.

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It is clear that any tax payment must be applied to the oldest tax delinquency. The only qualification is that payment for real estate taxes be applied to real estate and any for personal property to personal property. This conclusion is fortified by the requirement that a check or money order remitted for payment of specific taxes must be returned unless the same directed the payment to the oldest delinquency.

The conclusion here stated is based upon settled rules of construction including that which provides that:

"Where the terms of a statute are clear and unambiguous and leave no room for construction, they must be applied according to their literal meaning." Green v. Zimmerman, 269 S.C. 535, 238 S.E.2d 323. (For other cases see 17 S.C.D. Key 189, et seq.)

CONCLUSION:

The County Treasurer or Tax Collector must apply tax payments for real property taxes to the oldest delinquency of real property taxes owed by the person for whom the payment is made. Payments of personal property taxes must likewise be applied to the oldest delinquency of personal property taxes.

JLAJr:wcg