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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

April 20, 2004

The Honorable James E. Smith, Jr.
Member, House of Representatives
335-C Blatt Building
Columbia, South Carolina 29211

Dear Representative Smith:

In a letter to this office you cited the provisions of S.C. Code Ann. Section 12-45-75 (A) (2000) which provides as follows:

The governing body of a county may by ordinance allow a taxpayer to elect to pay all ad valorem taxes on real property located in the county in quarterly installments. No installment election is allowed for taxes paid through an escrow account.

The ordinance must specify the installment due dates and it may provide for installments due and payable before January fifteenth, but the final installment due date must be January fifteenth. The ordinance may provide for a service charge of not more than two dollars on installment payments. For purposes of payment and collection, these service charges are deemed property taxes. The ordinance may not provide penalties for late installments.

Referencing such provision, you have asked whether the governing body of a county may by ordinance allow a taxpayer to elect to pay ad valorem taxes on real property located in a county in monthly installments rather than quarterly installments. You particularly noted that pursuant to the second paragraph set forth above, Section 12-45-75 indicates that "(t)he ordinance must specify the installment due dates...."

Generally, a county may enact an ordinance and the ordinance will be considered valid if there is no conflict with state law. Wrenn Bail Bond Service, Inc. v. City of Hanahan, 335 S.C. 26, 515 S.E.2d 521 (1999). See also: Ops. Atty. Gen. dated January 14, 1998; October 15, 1996; July 13, 1988. In examining your question, reference must be had to the specific provision set forth in Section 12-45-75 that "(t)he governing body of a county may by ordinance allow a taxpayer to elect to pay all ad valorem taxes on real property located in the county in quarterly installments." The primary goal of statutory construction is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Generally, if a statute's language is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for utilizing rules of statutory interpretation and a court is without authority to either look for or impose another meaning.

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Chestnut v. South Carolina Farm Bureau Mutual Insurance Co., 298 S.C. 151, 378 S.E.2d 613 (Ct. App. 1989). As similarly stated, when the terms of a particular statute are plain and unambiguous, the literal meaning should be applied. Duke Power Co. v. South Carolina Tax Commission, 292 S.C. 64, 354 S.E.2d 902 (1987). Section 12-45-75 appears clear and unambiguous in stating that payments made be made on ad valorem taxes on real property in quarterly installments. In my opinion, no additional authority exists for allowing such payments to be made in any other manner, such as that suggested by you of payments being made on a monthly basis. Therefore, a county would not be authorized to enact an ordinance authorizing monthly payments.

Support for such construction may be found in examining the provisions of Section 12-45-75 prior to its amendment as set forth above. Formerly, pursuant to provisions enacted in Act No.444 of 1994, Section 12-45-75 read:

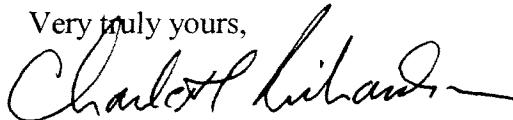
The governing body of a county may by ordinance allow a taxpayer to elect to pay all ad valorem taxes on real property located in the county in installments: No installment election is allowed for taxes paid through an escrow account.

The ordinance must specify the installment due dates and it may provide for installments due and payable before January fifteenth, but the final installment due date must be January fifteenth....

Therefore, such provision, prior to its present amendment setting forth that payments may be made on ad valorem taxes on real property in quarterly installments, simply authorized payments "in installments". Arguably, pursuant to such language, a county would have been authorized to allow for payments on a monthly basis. However, by amending such provision, authorizing payments in quarterly installments, it appears that the Legislature did not authorize any payments other than those on a quarterly basis.

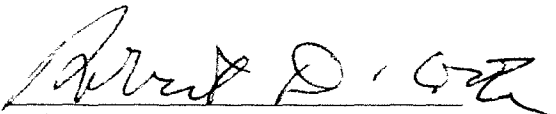
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General