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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

December 17, 2004

The Honorable Mary Louise Parham
Dillon County Treasurer and Tax Collector
Post Office Drawer 552
Dillon, South Carolina 29536

Dear Ms. Parham:

As the delinquent tax collector of Dillon County, you seek an opinion regarding the meaning of the word "month" as contained in S.C. Code Ann. Section 12-51-90 for purposes of computation of the twelve month redemption period required thereby. By way of background, you state the following:

[a] defaulting taxpayer's property was sold on October 6, 2003, to a citizen of Dillon County. On October 7, 2004, the defaulting taxpayer tenders the redemption amount on that item of real estate. The citizen who [bid] on the property believes that the redemption period had expired at 12:00 midnight on October 6, 2004. The question is had the redemption period expired?

You reference an earlier Attorney General's opinion, dated November 30, 1990 which concluded that the term "month" as used in § 12-51-90 meant "calendar month" and further found that a calendar month is calculated for purposes of determining whether an event must occur "within" a month or months by not counting the first day and including the last.

Law/Analysis

Section 12-51-90 provides in pertinent part as follows:

- (A) the defaulting taxpayer, any grantee from the owner, or any mortgage or judgment creditor may within twelve months from the date of the delinquent tax sale redeem each item of real estate by paying to the person officially charged with the collection of delinquent taxes, assessments, penalties, and costs, together with interest as provided in subsection (B) of this section.

(emphasis added).

Received 1/17/05

Several principles of statutory construction are pertinent to your inquiry. First and foremost, is the cardinal rule of construction that the primary purpose in interpreting statutes is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). A statute as a whole must receive a practical, reasonable and fair interpretation consonant with the purpose, design and policy of the lawmakers. Caughman v. Cola. Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). Words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1990). A court must apply the clear and unambiguous terms of a statute according to their literal meaning. Id.

In an opinion dated November 30, 1990, we construed the pertinent portion of § 12-51-90. There, we interpreted the meaning of the phrase "within twelve months of the delinquent tax sale" as used in the statute. We stated that

Section 12-51-90 provides that property may be redeemed "within twelve months from the date of the delinquent tax sale." The term "month must be construed to mean a calendar and not a lunar month. Williamson v. Farmer, [1 Bailey 611 (1830)]

A calendar month is

... the period of time running from the beginning of a certain numbered day up to, but not including, the corresponding numbered day of the next month, and if there is not a sufficient number of days in the next month, then up to and including the last day of that month. 74 Am.Jur.2d, Time, Section 9. In computing the months, the first day is to be excluded and the last included.

The opinion thus concluded that "[w]hen computing the time requirements of Sections 12-49-220, 12-48-300, 12-51-40 and 12-51-90, the first day is to be excluded and the last day included unless the last day falls on a Saturday, Sunday or legal holiday."

The 1990 opinion has existed without change or alteration by the Legislature for 14 years. It is well recognized "that the absence of any legislative amendment following the issuance of an opinion of the Attorney General strongly suggests that the views expressed therein were consistent with the legislative intent. Op. S.C. Atty. Gen., July 23, 1999, referencing Scheff v. Township of Maple Shade, 149 N.J. Super. 448, 374 A.2d 43 (1977). Here, while the General Assembly has substantially amended § 12-51-90 since the 1990 opinion was rendered, it has not seen fit to change the wording of the statute under consideration here. Thus, in our view, the 1990 opinion represents a correct statement of the law.

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Accordingly, applying the principles cited in the November 30, 1990 opinion, it is our opinion that the defaulting taxpayer tendered the redemption amount within the required twelve months prescribed by § 12-51-90. Using the above-referenced rules of calculating time, the first day of the twelve month period – October 6, 2003 – would not be counted and the twelve month period would begin on October 7, 2003. Thus, at the very least, the property was redeemed on the last day available under the statutory period – October 7, 2004. While only a court could determine this conclusion to be correct, it is our opinion that the redemption occurred “within twelve months from the date of the delinquent tax sale.”

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an