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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

April 12, 1995

The Honorable Dewitt Williams
Member, House of Representatives
404B Blatt Building
Columbia, South Carolina 29211

Re: Informal Opinion

Dear Representative Williams:

Attorney General Condon has referred your recent letter to me for reply. You ask the following:

If a piece of land is sold by the county to pay for the taxes due on that property and the taxes are \$50 but the county sells the land for \$500, where does the excess amount go? After the taxes are paid, will the excess amount go to the person/people who originally owned the land before the sale? Is it legal for the county to keep all monies generated by the sale of this piece of property?

Enclosed are two recent opinions, 92-48 (September 2, 1992) and 92-50 (September 3, 1992) which address your question and discuss the issues involved thoroughly. Both opinions address S.C. Code Ann. Section 12-51-130 and Op. 92-48 concludes that Section 12-51-130 controls where there is an overage produced by the tax sale. As you can see, Section 12-51-130 provides that where a tax sale produces an overage, in cash above the full amount due in taxes, assessments, penalties and costs, "the overage shall belong to the defaulting taxpayer to be claimed or assigned according to law." If neither claimed nor assigned within 5 years, the statute requires that "the overage shall escheat to the general fund of the governing body." Opinion 92-50 further elaborates upon this question and I believe both opinions provide the guidance you need.

The Honorable Dewitt Williams

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This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Robert D. Cook
Assistant Attorney General

RDC/an
Enclosures