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THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

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

July 18, 1990

SUBJECT: Taxation & Revenue - Fee to be paid for filing, recording and satisfying executions or warrants for distraint issued by the South Carolina Tax Commission.

SYLLABUS: The fee to be paid by the South Carolina Tax Commission to the clerks of court or registers of mesne conveyance for the filing, recording and satisfaction of warrants for distraint and tax executions it issues is five dollars.

TO: Mr. Marvin N. Davant, Director  
Field Services Division

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

QUESTION: Is the fee to file, record and satisfy a warrant for distraint or tax execution issued by the South Carolina Tax Commission \$5 for all or \$5 for each; the filing, the recording and the satisfaction?

APPLICABLE LAW: Section 8-21-310, South Carolina Code of Laws, 1976, as amended.

DISCUSSION:

Section 8-21-310 provides the fee that the clerks of court or the registers of mesne conveyance are to charge for entry of documents upon their records.

Subsection (20) provides the fee for the filing, recording and satisfaction of the liens of the South Carolina Tax Commission. The language is that:

"Except as otherwise expressly provided, the following fees and costs shall be collected on a uniform basis in each county by clerks of court and registers of mesne conveyances or county treasurers as may be determined by the governing body of

July 18, 1990

the county:

. . . For filing and enrolling and satisfying executions or warrants for distraint for the South Carolina Employment Security Commission, the South Carolina Tax Commission or any other state agency, where costs of such executions or warrants for distraint are chargeable to the persons against whom such executions or warrants for distraint are issued, two dollars; . . ."

This provision was amended in 1990 to increase the fee to five dollars otherwise the language remained unchanged.

Section 12-53-40 provides a charge for costs to a delinquent taxpayer for each warrant for distraint issued by the Tax Commission of two dollars. That section was also amended in 1990 to increase the charge to five dollars.

It should first be noted that for an extended period of time, a fee of two dollars was charged for the filing, recording and satisfaction of a Tax Commission lien. There was no contention that there was a separate charge for each of the acts. This has been the longstanding interpretation and administration of Section 8-21-310 by the Tax Commission and all of the clerks of court and registers of mesne conveyance. This interpretation and administration has been long recognized and accepted by the General Assembly. Because of such, it is entitled to great weight and should not be overruled without cogent reasons.

"Construction of a statute by the agency charged with executing it is entitled to most respectful consideration and should not be overruled without cogent reasons."  
William C. Logan & Associates v. Leatherman, 290 S.C. 400, 351 S.E.2d 146 (1986). (For collection of cases, see 17 S.C.D., Statutes, Key 219)

The correctness of that administrative interpretation is fortified by the general definition of the word "and." Webster's Ninth Collegiate Dictionary defines it to mean:

"Used as a function word to indicate connection or addition esp. of items within the same class or type; used to joining sentence elements of the same grammatical rank or function; used as a function word

Mr. Marvin N. Davant  
Page Three

July 18, 1990

to express logical modification, consequence, antithesis, or supplementary explanation; used in logic as a sentential connective that forms a complex sentence which is true only if both constituent sentences are true Compare conjunction."

The General Assembly has here provided that for the filing and recording and satisfaction the fee shall be five dollars. The word "and" is conjunctive and means that the fee is for all of the acts. Had the General Assembly intended that the fee be five dollars for each it could have easily provided for the same.

**CONCLUSION:**

The fee to be paid by the South Carolina Tax Commission to the clerks of court or registers of mesne conveyance for the filing, recording and satisfaction of warrants for distraint and tax executions it issues is five dollars.

JLAJR/jws