

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO.

88-88 pg 240

December 1, 1988

SUBJECT:

Taxation and Revenue - Extension Of Time In Which To Appeal Property Tax Assessments.

SYLLABUS:

Section 12-43-300 does not grant to the governing body of Anderson County the authority to extend the time in which to appeal a property assessment for the tax year 1988. However, for tax years beginning after 1988, the governing body of Anderson County will have authority to grant such extensions pursuant to the provisions of Act 381, H.B. 2573, Acts of 1988.

TO:

Honorable M. J. Cooper  
Member, House of Representatives

FROM:

Ray N. Stevens *RNS*  
Deputy Attorney General

QUESTION: Does the governing body of Anderson County have the authority to grant an extension of time in which to appeal a property assessment for the tax year 1988?

APPLICABLE LAW: Section 12-43-300, South Carolina Code of Laws, 1976, as amended and Act 381, H.B. 2573, Acts of 1988.

DISCUSSION:

Section 12-43-300 requires the assessor to give written notice to the property owner or his agent of the valuation and assessment of real property owned by the taxpayer. The statute further provides a period in which an appeal may be made.

" . . . The owner or his agent, if he objects to the valuation and assessment, shall serve written notice of his objection upon the assessor within thirty days of the date of the mailing of the notice. . . ."

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The statute is silent as to the issue of the county governing body granting an extension of the taxpayer's 30 day appeal period. To determine if such an extension is available, the statute must be construed to decide the Legislature's intent since such intent is always the controlling factor in interpreting statutes. Peoples National Bank of Greenville v. South Carolina Tax Commission, 250 S.C. 187, 156 S.E.2d 769 (1967).

In construing the statute to determine the Legislature's intent, certain rules of construction are applicable. First, tax statutes cannot be extended by implication beyond the clear import of the language used. Greenville Baptist Association v. Greenville County Treasurer, 281 S.C. 325, 315 S.E.2d 163 (1984). Here the language of the statute does not provide for an extension of time in which to appeal. To find the statute allows an extension of the appeal period would extend the terms of the statute beyond the clear language. Second, the words used in the statute must be given this ordinary significance without the insertion of additional words. For example, in Hay v. South Carolina Tax Commission, 273 S.C. 269, 255 S.E.2d 837, 840 (1979), the Court refused to insert words into a statute by which a tax election was to be made.<sup>1</sup>

"If there was an intention to restrict an election to report income on the installment basis to an election in writing to be made in the return for the year of sale, the statute would have so specified. . . ."

In the instant matter, to find that an extension of the appeal period is authorized would require adding words to the statute. Such cannot be done.

Third, the General Assembly is presumed to be familiar with prior legislation dealing with similar extension provi-

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<sup>1</sup>The South Carolina Tax Commission asserted that in order for a taxpayer to report a gain on the installment method, the taxpayer had to make the election by noting in writing on his tax return that he was electing that method. The statute allowing the installment method was silent as to the manner of the election and the taxpayer did not make his election in writing in the year of the sale.

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sions. Bell v. South Carolina State Hwy. Dept., 204 S.C. 462, 30 S.E.2d 65 (1944). Section 12-43-220(c) provides for the filing of an application by May 1 in order for the taxpayer to receive a 4% assessment ratio on his legal residence. By Act 618 of the 1976 Acts, on May 26, 1976 that statute specifically authorized the local taxing authority to "extend the time for filing." Such authority has been also granted since June 25, 1979 by Act 116 of the 1979 Acts to the county governing body for taxpayers seeking extensions of time to file for agricultural use valuation. Section 12-43-300, with which this opinion is concerned, was substantially amended and rewritten by Act 109, Acts of 1983, effective June 10, 1983. Since the General Assembly was obviously aware that prior similar legislation granted extension powers to county governing bodies and since the 1983 amendments to Section 12-43-300 did not provide similar extension powers, it must be presumed no extension powers were intended to be granted.

Finally, in determining legislative intent, it is proper to consider subsequent enactments dealing either with the statute under review or with statutes concerning the same subject matter. Gardner v. McDonald, 281 SC 455, 316 S.E.2d 374 (1984). For taxable years beginning after 1988, Act 381, H.B. 2573, Acts of 1988, amended Section 12-43-300 to specifically grant county governing bodies the authority to extend the period for objecting to an assessment. This amendment reinforces the view that prior to 1989 no authority existed for the county governing body to grant an extension since passage of an amendment is presumed to show the General Assembly intended to change the existing law. Vernon v. Harleyville Mutual Casualty Company, 244 S.C. 152, 135 S.E.2d 841 (1964); North River Insurance Company v. Gibson, 244 S.C. 393, 137 S.E.2d 264 (1964).

CONCLUSION:

Section 12-43-300 does not grant to the governing body of Anderson County the authority to extend the time in which to appeal a property assessment for the tax year 1988. However, for tax years beginning after 1988, the governing body of Anderson County will have authority to grant such extensions pursuant to the provisions of Act 381, H.B. 2573, Acts of 1988.

RNS:wcg