

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 85-77 8243

July 10, 1986

SUBJECT: Taxation and Revenue - Revocation of licenses and refusal to issue licenses because of outstanding tax liability.

SYLLABI: 1. The Tax Commission may revoke a license issued by it for nonpayment of any outstanding tax liability administered by the Commission.

2. The Tax Commission may refuse to issue a license to any person who is delinquent in the payment of a tax liability.

TO: Mr. E. Gregorie Frampton
Executive Director
South Carolina Tax Commission

FROM: Ronald W. Urban *RWU*
Assistant Attorney General

QUESTIONS:

1. May the Tax Commission revoke a license issued by it for nonpayment of any tax administered by the Commission?
2. May the Tax Commission refuse to issue a license to a person who is delinquent in the payment of a tax liability?

APPLICABLE LAW: § 12-54-90, South Carolina Code of Laws, 1976, as amended.

DISCUSSION - Question 1:

Section 12-54-90 grants the Tax Commission certain powers for purposes of tax enforcement. It provides as follows:

"A person, who is licensed by the Commission to do business in this State, who fails, neglects, or refuses to comply with the law shall have any one or more licenses held by him revoked. The Commission may revoke any taxpayer's license within ten days after

July 10, 1986

notification to him of failure to comply with provisions of law administered by the Commission. A person whose license has been revoked may not be issued a new license until outstanding liabilities are satisfied.

The Commission may review and determine whether a new license may be issued according to guidelines established by it."

The above statute authorizes the Commission to revoke any license administered by it when the holder of such license has an outstanding tax liability. Nowhere in § 12-54-90 is there an indication that this revocation power is contingent upon the license and the delinquent taxes being the same tax type. Accordingly, the Commission may revoke a taxpayer's license on account of any outstanding tax liability. For example, a taxpayer's retail sales license may be revoked because of an outstanding withholding tax liability.

CONCLUSION - Question 1:

The Tax Commission may revoke a license issued by it for nonpayment of any outstanding tax liability administered by the Commission.

DISCUSSION - Question 2:

Section 12-54-90 states in part that "a person whose license has been revoked may not be issued a new license until outstanding liabilities are satisfied". The question posed here is whether a license may also be refused in those instances where a license has not been previously issued or revoked but there is an outstanding tax liability.

Although § 12-54-90 does not specifically state whether the Tax Commission can refuse to issue a license because of an outstanding tax liability, common sense dictates that such should be construed as being implicit therein. To interpret § 12-54-90 otherwise would lead to absurd results. It would require the Commission to issue the license and then revoke the same because of the delinquent taxes. The futility of this exercise is evident in that its final outcome is the same as if the Commission had refused to issue the license in the first instance.

Mr. E. Gregorie Frampton
Page Three

July 10, 1986

It is a general rule that statutes should be construed sensibly so as to avoid absurd results. See 17 S.C.D., Statutes, § 181(2). Here the more sensible interpretation of § 12-54-90 is that it allows the Commission to refuse to issue a license to any taxpayer who has an outstanding tax liability.

CONCLUSION - Question 2:

The Tax Commission may refuse to issue a license to any person who is delinquent in the payment of a tax liability.

RWU:wcg