

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 36-40 p127

March 24, 1986

SUBJECT: Taxation And Revenue - Requirement For
Derivation Clause In Tax Deed When Owner Is
Unknown.

SYLLABUS: When property is sold under an "unknown"
ownership, an entry to this effect in the tax
title property description would satisfy the
requirements of §§ 30-9-50 and 30-5-35.

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FROM: Joe L. Allen, Jr. *JLA*
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QUESTION: When the owner of real property is unknown and
the property is sold for non-payment of taxes, how is the
requirement for a derivation clause satisfied?

APPLICABLE LAW: Sections 12-39-70, 30-5-35 and 30-9-50,
South Carolina Code of Laws.

DISCUSSION:

Section 12-39-70 provides that the county auditor shall
list property for purposes of taxation and to reflect the
name of the owner thereon. The section, however, further
provides that:

"If the name of the owner of any tract
or lot shall be unknown, the word
'unknown' shall be entered in the column
of names opposite such tract or lot."

For tax purposes the lot or tract is then taxed in the name
of "unknown". A levy and sale under such an identification
was upheld in the case of Gilliland v. Citadel Square
Baptist Church, 33 S.C. 164, 11 S.E. 684 (1890).

It would thus be logical to conclude that such an entry in
the property's description would also satisfy the

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requirements of §§ 30-9-50 and 30-5-35.¹

CONCLUSION:

When property is sold under an "unknown" ownership, an entry to this effect in the tax title property description would satisfy the requirements of §§ 30-9-50 and 30-5-35.

JLAJR/jws

¹ The contents of the tax title for property sold under the provisions of Chapter 51 of Title 12 are set forth in § 12-51-130.