

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

*Opinion No. 87-15  
P. 57*

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

February 3, 1987

SUBJECT: Taxation & Revenue - Collection Of Assessment  
For Public Service Commission.

SYLLABUS: The penalties provided by Section 12-45-180  
are not to be applied to the late payment of  
assessments issued under authority of Section  
58-3-100.

TO: Mr. Michael Horton  
Senior Assistant Comptroller General

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

QUESTION: Is the penalty provided by Section 12-45-180 to  
be applied to late payments of assessments issued pursuant  
to Section 58-3-100?

APPLICABLE LAW: Sections 58-3-100, 12-45-180 and 12-45-60,  
South Carolina Code of Laws, 1976.

DISCUSSION:

The expense for the South Carolina Public Service Commission  
is apportioned to the several companies that are subject to  
the Commission's jurisdiction. The Comptroller General on  
or before the first day of October of each year determines  
and assesses the amount due by each company. The section  
further provides that:

"Such assessments shall . . . be  
collected by the several county  
treasurers in the manner provided by law  
for the collection of taxes from such  
companies . . ."

Act 166, Acts of 1985 now provides for the exclusive method  
the treasurer is to use to collect county taxes. Section  
12-45-180 (a part of the 1985 Act) provides for penalties  
for the late payment of taxes and assessments charged on the  
duplicate. The duplicate is provided by Section 12-39-150  
and is a list or schedule of all taxable property in the  
county and includes the amount of tax apportioned to each

Mr. Michael Horton  
Page Two

February 3, 1987

property. The duplicate is the treasurer's authority to collect the tax reflected thereon.

Section 12-45-60 further precludes the treasurer from collecting any tax except that reflected on the duplicate. That limitation, however, must be considered in conjunction with Section 58-3-100. That section provides a legislative mandate that the treasurer collect the assessment provided by the Comptroller General. The assessment is obviously not a tax upon property and thus is not to be entered on the duplicate.

By reason thereof the assessment as provided by Section 58-3-100 is not a tax or assessment charged on the duplicate. The penalties thus provided by Section 12-45-180 are not applicable to the late payment of that charge.<sup>1</sup>

CONCLUSION:

The penalties provided by Section 12-45-180 are not to be applied to the late payment of assessments issued under authority of Section 58-3-100.

---

<sup>1</sup>The opinion is premised upon the settled rule of construction that statutes that levy penalties are to be strictly construed with doubt resolved against the penalty. See 36 Am.Jr.2d, Forfeitures and Penalties, Sec. 8, p. 615, 73 Am.Jr.2d, Statutes, Sec. 293, p. 451, 17 S.C.D., Statutes, Key 241, et seq.

JLAJr/jws