

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 85-29p251

August 20, 1985

SUBJECT: Taxation & Revenue - Collection Of Ad Valorem
Taxes By A Municipality.

SYLLABUS: Senate Bill S-397 bearing ratification number
R-254 repeals authority for a municipality
to adopt the provisions of Chapter 51 of
Title 12 for the collection of its taxes.
Chapter 51 can be used to collect municipal
taxes only when the municipality contracts
for the county to collect the tax.

TO: Honorable Ramon Schwartz, Jr.
Speaker, The House Of Representatives

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

QUESTION: What effect does Senate Bill S-397, Ratification
R-254 have upon the collection of property taxes by a
municipality that does not contract with a county for the
collection?

APPLICABLE LAW: Senate Bill S-397, R-254, and Section
5-7-30 Of the South Carolina Code Of Laws, 1976.

DISCUSSION:

The 1985 Act repeals effective January 1, 1986, § 12-51-20
of the South Carolina Code Of Laws, 1976. The language of
the repealed section is that:

"Any county or other political
subdivision of the State may by
resolution, ordinance or law, as
applicable, elect to exercise any of the
powers granted by this chapter as herein
prescribed."

Chapter 51 of Title 12 was the only state statute that
provided a procedure for municipalities to follow for the
collection of ad valorem taxes. Other specific provisions
that provided for penalties, liens and the collection
procedures for municipalities were repealed by the Home Rule
Act. (See Sec. 5 of Act 283, Acts of 1975 at p. 717 that

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repealed Articles 1, 3, 4 and 5 of Chapter 1, Chapters 2 through 7 and Chapter 14 of Title 47 of the 1962 Code).

A municipality's authority to collect taxes is set forth in § 5-7-30 and the applicable language is that:

"All municipalities of the State shall, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, ... including the authority to levy and collect taxes on real and personal property The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding two hundred dollars or imprisonment not exceeding thirty days."

The powers of a municipality to collect the tax is provided by this provision and the procedure for the collection of the tax would be dependent upon the language of the municipal ordinance.

CONCLUSION:

Senate Bill S-397 bearing ratification number R-254 repeals the authority for a municipality to adopt the provisions of Chapter 51 of Title 12 for the collection of its taxes. Chapter 51 can be used to collect municipal taxes only when the municipality contracts for the county to collect the tax.

JLAJr/jws