

1984 WL 249803 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 11, **1984**

*1 Honorable Dick Elliott
Member
House of Representatives
Post Office Box 3165
North Myrtle Beach, South Carolina 29582

Dear Representative Elliott:

Reference is to the letter to you from Jack Ethredge, City Manager for the City of North Myrtle Beach. The concern is the date tax notices are to be mailed and whether a penalty is imposed for the failure to timely mail if such is required.

The collection of municipal taxes by a county is by agreement or contract. With reference to motor vehicles, § 12-37-2690 authorizes the city and county to contract for the collection of the municipal tax. It would thus appear that the matter presented in Mr. Ethredge's letter is one of contract between the city and the county.

Notwithstanding, the only statutory requirement to mail a notice in Horry County relates to a county tax and is found in Act 978, Acts of 1964. The act provides that:

‘All tax notices from the Auditor of Horry County to the taxpayer shall include an itemized statement of the tax levy showing the millage accruing to each item supported by such tax.’

Whether this special legislation has been modified or repealed by action of county council is not known. The same, however, does not set forth any time limitation.

When the tax book (duplicate) is to be prepared and delivered is set by statute. Section 12-39-140 provides that the auditor: ‘* * * shall on or before the thirtieth day of September of each year, make up and complete the tax books of his county as required by § 12-39-150 * * *.’

Section 12-39-150 states in part that:

‘* * *. Such list or schedule shall be retained in his office and another made for the county treasurer, delivered to him on or before the thirtieth day of September, annually as his warrant for the collection of taxes, assessments, and penalties charged thereon. * * *.’

The information set forth on the auditor's duplicate and tax book is that used for the levy of the municipal tax. (See § 12-37-40 and Article X, § 4.)

Under the general law the time for preparing and delivering the tax duplicate is ‘on or before the thirtieth day of September’ unless extended under authority of § 12-1-20. That section provides authority to the comptroller general with approval of the Governor to extend the time to complete and deliver the duplicate.

The penalty provision related to the failure to prepare and deliver the duplicate is found in § 12-1-90. This section provides upon conviction for certain fines and imprisonment. A copy of the section is enclosed.

With best wishes, I am

Yours very truly,

Joe L. Allen, Jr.

Chief Deputy Attorney General

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