

1984 S.C. Op. Atty. Gen. 67 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-27, 1984 WL 159834

Office of the Attorney General

State of South Carolina

Opinion No. 84-27

March 8, 1984

**\*1 SUBJECT: Taxation and Revenue—Redemption of Property Sold for Nonpayment of Property Taxes.**

(1) When property is sold for nonpayment of property taxes pursuant to the provisions of Chapter 51 of Title 12, the taxes accruing during the eighteen month redemption period are the liability of the owner, the defaulting taxpayer.

(2) When taxes are paid by the purchaser of property sold for nonpayment of property taxes during the redemption period, such taxes cannot be added to the amount required to be paid by the owner as a condition for the redemption.

(3) The purchaser of property sold for nonpayment of ad valorem taxes receives title at the end of the redemption period subject to the lien for unpaid taxes upon the property.

To: Honorable Thomas L. Moore  
Senator  
District 8

QUESTIONS:

1. Who is responsible for the payment of current taxes on the property between the time of the delinquent tax sale and the expiration of the eighteen month redemption period?
2. If the current taxes are paid by the successful bidder prior to the expiration of the redemption period, how does the successful bidder recover this expense when the property is redeemed by its owner?
3. If the current taxes are not paid by the successful bidder during the eighteen month redemption period, does the successful bidder have to pay them before receiving title to the property?

APPLICABLE LAW:

[§§ 12-51-90, 12-51-130, 12-37-610](#) and [12-49-540](#), Code of Laws of South Carolina, 1976.

DISCUSSION:

QUESTION 1. The defaulting property owner is not dispossessed of the property during the eighteen month redemption period provided by [§ 12-51-90](#). [Section 12-51-130](#) precludes giving the purchaser title or possession until the period expires. Under [§ 12-37-610](#) the person seized in fee or for life is the person liable for payment of the tax. The estate of the defaulting taxpayer is thus not ended until the redemption period expires. The ownership by the purchaser is contingent upon a failure to redeem. The purchaser's interest in the contingency is protected by [§ 12-49-540](#) when a threatened waste or damage to the property may be enjoined.

CONCLUSION:

When property is sold for nonpayment of property taxes pursuant to the provisions of Chapter 51 of Title 12, the taxes accruing during the eighteen month redemption period are the liability of the owner, the defaulting taxpayer.

**QUESTION 2.** During the eighteen month redemption period, the purchaser at the tax sale is not the owner of the property for tax purposes. We do not know of any statutory authority to recover taxes paid by the purchaser during the redemption period. The general rule is stated in 85 C.J.S., Taxation, § 875, as follows:

‘The authority to pay subsequent taxes and tack them to the amount paid by the tax purchaser must be derived from the statute, and, in the absence of provision therefor, there can be no recovery by the purchaser for amounts so paid.’

\*2 As stated, we know of no authority to recover the taxes so paid.

**CONCLUSION:**

When taxes are paid by the purchaser of property sold for nonpayment of property taxes during the redemption period, such taxes cannot be added to the amount required to be paid by the owner as a condition for the redemption.

**QUESTION 3.** The purchaser under such circumstances acquires title to the property subject to the lien of the unpaid the taxes. Section 12–49–10, et seq., creates a lien upon the property for the unpaid property tax.

‘All taxes \* \* \* legally assessed shall be considered and held as a debt payable to the State by the person against whom they shall be charged and such taxes \* \* \* shall be a first lien in all cases whatsoever upon the property taxed \* \* \*.’

**CONCLUSION:**

The purchaser of property sold for nonpayment of ad valorem taxes receives title at the end of the redemption period subject to the lien for unpaid taxes upon the property.

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