

1984 WL 250002 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 30, 1984

\*1 Honorable Margie Plunkett  
Treasurer of Aiken County  
828 Richland Avenue  
Aiken SC 29801

Dear Mrs. Plunkett:

You request the opinion of this office of whether a refund or transfer can be made of ad valorem taxes that were paid without protest for the 1984 tax year.

The taxes were voluntarily paid by the owner of the property for the 1984 tax year and a proper receipt given therefor. The owner now contends that he did not intend to pay the 1984 taxes but instead intended to pay the taxes due for the 1983 tax year. A refund or transfer of the 1984 payment is sought presumable so that the same can be applied to the 1983 tax liability. We do not know of any statutory authority for the refund or transfer of a correct tax payment. Section 12-47-70, et seq., provides authority for the refund of an incorrect tax collection. The payment here, however, is not incorrect. It was the payment of a correct assessment and levy.

Section 12-45-70 further provides that the 1984 taxes are now due and payable. The section also prescribes the form of the receipt. The owner was given notice of the tax liability and the receipt identified the property for which the payment was made.

In further support of this conclusion, the tax payment for 1983 could not have been made to your office. Under the statute law of this State, the payment of delinquent taxes in Aiken County is to the tax collector. That office is separate and apart from the office of the county treasurer.

In a practical sense, it should be observed that a timely payment of the 1984 tax precludes the imposition of any penalties and costs. Penalties and costs, however, have been incurred for the 1983 tax year. By timely payment of the 1984 tax, those penalties and costs are avoided. Additionally, the discounts granted for timely payment of the 1984 taxes would be lost.

Yours very truly,

Joe L. Allen, Jr.  
Chief Deputy Attorney General

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