

1983 WL 182043 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 2, 1983

**\*1 SUBJECT: Taxation and Revenue—Levy of Additional Costs When Time for Execution and Sale is Extended**

When an extension is granted under § 12-1-20 for the execution and sale of property for delinquent taxes, the additional cost levy provided by § 12-51-40(c) is likewise extended.

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**QUESTION:**

An extension has been granted Dorchester County under § 12-1-20 for the execution and sale of property for the collection of delinquent taxes. Your inquiry is whether the additional cost of five per cent provided by § 12-51-40(c) is to be levied or whether the same is likewise postponed until the time of the levy and sale.

**APPLICABLE LAW:**

§§ 12-51-40(c), 12-1-20 and 12-51-50, Code of Laws of South Carolina, 1976.

**DISCUSSION:**

Section 12-1-20 provides that the Comptroller General, with the approval of the Governor, may extend the time for the performance of duties relative to tax assessment and collection when such duties are necessarily delayed. Section 12-51-40(c) provides in part that:

‘On September first next following the year in which the taxes become due, the person officially charged with the collection of delinquent taxes shall add five percent as additional cost \* \* \* and shall proceed to properly advertise, \* \* \* the property for sale \* \* \*.’

Section 12-51-40 then provides that the property is to be sold when the taxes, penalties and costs are not paid in full before 10:00 a.m. on the sales date.

The extension granted under § 12-1-20 defers the sale until 1984. The extension further delays the imposition of the additional cost levy. A fundamental rule of statutory construction is that effect is to be given to the intent of the General Assembly. (See cases collected in 17 S.C.D., Statutes, Key 180, et seq.) Here, the additional costs are joined with the command to ‘proceed to properly advertise the property as provided by law’. Section 15-39-50 provides that the advertisement is ‘immediately previous to the sales day’. The advertisement is thus postponed until ‘immediately previous to the sales day.’ It is thus clear that the additional cost can be levied just prior to the time the property is to be advertised for sale, which in this case is 1984.

**CONCLUSION:**

When an extension is granted under § 12-1-20 for the execution and sale of property for delinquent taxes, the additional cost and levy provided by § 12-51-40(c) is likewise extended.

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