

1981 S.C. Op. Atty. Gen. 56 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-35, 1981 WL 96561

Office of the Attorney General

State of South Carolina

Opinion No. 81-35

April 9, 1981

***1 SUBJECT: Documentary Stamp Tax**

In accordance with the provisions of [§ 12-21-30 of the 1976 Code](#) of Laws, the Tax Commission has the authority to engage persons to sell documentary stamps on consignment.

TO: Mr. J. W. Lawson
Director
License Tax Division
South Carolina Tax Commission

QUESTION:

Does the Tax Commission have the statutory authority to engage persons to sell documentary stamps on consignment under the provisions of [§ 12-21-30 of the 1976 Code](#) of Laws?

APPLICABLE LAW:

[§ 12-21-30, Code of Laws of South Carolina](#), 1976.

DISCUSSION:

A consignment does nothing more than establish an agency for the purposes of a sale. Title to the property being transferred does not pass to the consignee, it remains in the consignor. [Greenwood Mfg. Co. v. Worley](#), 222 S.C. 156, 71 S.E.2d 889.

[Section 12-21-30](#) states:

‘The Commission may engage any person to sell tax stamps and shall allow as compensation for receiving, selling and accounting for such stamps three per cent of the sale price thereof.’

The Tax Commission has consistently interpreted the language of this statute as granting them the authority to consign documentary stamps. Pursuant to this interpretation the Tax Commission has for many years carried on an administrative practice of engaging persons to sell documentary stamps on consignment.

The general rule regarding statutory interpretation by an administrative agency has been articulated in [Etiwan Fertilizer Co. v. South Carolina Tax Commission](#), 217 S.C. 354, 60 S.E.2d 682. In that case the Court stated:

‘We have held in many cases that where the construction of the statute has been uniform for many years in administrative practice, and has been acquiesced in by the General Assembly for a long period of time, such construction is entitled to weight, and should not be overruled without cogent reasons.’

In light of the Tax Commission's long standing administrative practice and the General Assembly's acquiescence in that practice, it can be assumed that the Tax Commission's interpretation of § 12-21-30 is correct.

CONCLUSION:

In accordance with the provisions of § 12-21-30, the Tax Commission has the authority to engage persons to sell documentary stamps on consignment.

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