

1982 S.C. Op. Atty. Gen. 58 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-53, 1982 WL 155022

Office of the Attorney General

State of South Carolina

Opinion No. 82-53

July 27, 1982

***1 SUBJECT: Taxation—Property Tax Liens**

The first lien on a merchant's inventory for delinquent ad valorem taxes extends to all subsequently acquired inventory.

TO: Henry B. Richardson, Jr., Esquire
Sumter County Attorney

QUESTION:

Does the first lien on a merchant's inventory for delinquent ad valorem taxes extend to all subsequently acquired inventory?

APPLICABLE LAW:

§§ 12-49-10 and 12-49-30, [Code of Laws of South Carolina](#), 1976.

DISCUSSION:

[Section 12-49-10](#) gives ad valorem tax liens first priority status by stating:

‘All taxes, assessments and penalties 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, assessments, and penalties shall be a first lien in all cases whatsoever upon the property taxed, * * *.’

The question presented is whether the first lien established by [§ 12-49-10](#) applies to inventory subsequently acquired by a merchant or whether the first lien is limited to those specific items of inventory on hand when the property was returned for ad valorem tax purposes.

[Section 12-49-10](#) indicates that its lien applies only to ‘the property taxed’. When taxing inventory, it is not the single items of inventory that are individually taxed but rather it is the concept of a continuing inventory entity that generates the tax. Parts or all of the inventory may change from day to day but the ‘property taxed’, the inventory, is still present. Thus, subsequently acquired inventory would be subject to the first lien for taxes as ‘the property taxed’.

Further support for applying the first lien of [§ 12-49-10](#) to subsequently acquired inventory may be found in [§ 12-49-30](#). That Section states:

‘The lien for unpaid taxes on personal property shall also attached to any personal property subsequently acquired by the delinquent taxpayer.’

The language of [§ 12-49-30](#) is clear. When the language of a statute is clear and unambiguous, it must be held to mean what it plainly says. [Jones v. South Carolina State Highway Department](#), 246 S. C. 132, 146 S. E. 2d 166 (1966). By using the phrase

'The lien for unpaid taxes on personal property shall also attach', it is evident that the General Assembly was referring to the first lien of § 12-49-10 and extending it to subsequently acquired personal property.

The first lien on inventory for delinquent taxes thus extends to all subsequently acquired inventory.

CONCLUSION:

The first lien on a merchant's inventory for delinquent ad valorem taxes extends to all subsequently acquired inventory.

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