

1982 S.C. Op. Atty. Gen. 53 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-46, 1982 WL 155015

Office of the Attorney General

State of South Carolina

Opinion No. 82-46

June 29, 1982

***1 SUBJECT: Taxation—Property Tax on Motor Vehicles**

There is no statutory authority to apportion property taxes during a tax year and to refund or give credit because of such.

TO: Honorable Earle E. Morris, Jr.
Comptroller General

QUESTION:

A company with a fleet of vehicles has, in the past, licensed its motor vehicles each October. In October, 1981, the company paid taxes to license its fleet in that county for 12 months. This year (1982) they wish to change the licensing period of the fleet to begin in July of each year. They will owe taxes for a 12 month period beginning July, 1982, at the present tax rate. Would they be due a credit or refund for the three months that the new licensing period overlaps the 'old' licensing period? Can or should the pro-rata provisions of the Acts 405 and 435, Acts of 1980, be applied to the situation for the previous tax year?

APPLICABLE LAW:

§§ 12–37–2610 and 12–37–2620, 1976 Code of Laws.

DISCUSSION:

Section 12–37–2610 provides in part that:

'Notwithstanding any other provisions of law, the tax year for motor vehicles shall begin with the last day of the month in which a license required by § 56–3–110 of the 1976 Code is issued and shall end on the last day of the month in which the license expires or is due to expire. * * *.'

Section 12–37–2620 provides that:

'The tax payable on motor vehicles required to be licensed by § 56–3–110 of the 1976 Code shall be determined for a twelve-month licensing period. If the actual licensing period is less than twelve months, the tax payable shall be that proportion of the above described tax that is equal to the proportion of the number of months that the licensing period is to the twelve months period.'

Under the circumstances set forth the tax year for the motor vehicle would end in October 1982. If the company elects to acquire licenses in July and establish a different tax year for the motor vehicles, then in such event, there is no provision to refund the tax paid for the three-month period.

In [Guaranty Bank & Trust Co. v. South Carolina Tax Commission](#), 254 S.C. 821, 173 S.E.2d 367, our court stated:

‘A refund of taxes is solely a matter of governmental or legislative grace and any person seeking such relief must bring himself clearly within the terms of the statute authorizing the same. [Asmer v. Livingston](#), 225 S.C. 341, 82 S.E.2d 465. * * *,’

While the statute law has been amended, the substantive law is the same as that stated by the court in [Atkinson Dredging Co. v. Thomas](#), 266 S.C. 361, 223 S.E.2d 592. The court there held that:

‘If a Charleston taxpayer had bought an automobile on Christmas Day, 1974, and that automobile had been totally destroyed on New Year's Day, he would, none the less, be liable to pay property tax for the entire year 1975. On the other hand, if he had bought an automobile on January 2, 1975, he would owe no personal property tax on that for the year 1975. In an ideal state, it would probably be well to levy the personal property tax on a daily basis. However, this would be an administrative impossibility. Under our taxing system, there have always been inequalities and inequities resulting from the fact that the tax for an entire year is contingent under Sec. 65–1644 on possession or control on the 31st day of December next preceding the tax year in question.’

*2 The tax year for the vehicles would end as a matter of law in October 1982. The election to forfeit the three months does not fall within the statutory language and the tax cannot be apportioned.

CONCLUSION:

There is no statutory authority to apportion property taxes during a tax year and to refund or give credit because of such.

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