

1982 S.C. Op. Atty. Gen. 66 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-66, 1982 WL 155035

Office of the Attorney General

State of South Carolina

Opinion No. 82-66

October 25, 1982

***1 SUBJECT: Property Taxation—Valuation Appeal**

Appeals from property tax assessments as fixed by the county tax assessor must be heard and resolved before there can be a tax liability.

TO: J. Lewis Cromer, Esq.
Richland County Attorney

QUESTIONS:

- (1) During the reassessment appeals process, must the appellant pay his tax bill within the time required?
- (2) Should tax bills be sent to those individuals who are appealing their assessment?

APPLICABLE LAW:

§§ 12-43-300 and 12-39-150, Code of Laws of South Carolina, 1976; Article III, § 29 of the Constitution of South Carolina.

DISCUSSION:

Section 12-43-300 provides the procedure a person is to follow when taking exception to the valuation of property for ad valorem taxation. Until this procedure is exhausted there is no fixed tax valuation or assessment. The taxes must be 'laid upon' the assessment.

'All taxes upon property, real and personal, shall be laid upon the actual value of the property taxed, as the same shall be ascertained by an assessment made for the purpose of laying such tax.' Article III, § 29, Constitution of South Carolina.

The assessment is thus essential and necessary to constitute a tax liability. State v. Cheraw & D. R. Co., 54 S.C. 564 32 S.E. 691.

Section 12-39-150 provides the procedure the auditor is to follow in preparing the tax duplicate. The duplicate is the treasurer's authority to collect a tax. The section provides in part that the value as equalized of taxable property shall be set forth upon the duplicate. This is the value upon which the tax is calculated.

These provisions thus require a final valuation of property before the same is taxable. Such is fortified by the requirements of the constitutional guarantee of due process. The same is that the owner must be given an opportunity to be heard before the value is finalized.

'An opportunity for a hearing before a competent and impartial tribunal upon proper notice is one of the essential elements of due process * * *.' 16 Am.Jur.2d. Constitutional Law, § 839, p. 1031.

The property owner further must proceed under the administrative remedies before there can be a judicial review. [Meredith v. Elliott](#), 247 S.C. 335, 147 S.E.2d 244. Due process thus requires that the property owner be heard before there is a final valuation. 'Ordinarily, in proceedings before an officer of a board to review and correct tax assessments, a hearing is required at which the interested parties may have an opportunity to present their contentions, and which must be conducted in accordance with constitutional and statutory requirements.' 84 C.J.S. Taxation, § 538, p. 1042.

CONCLUSION:

It is the opinion of this office that appeals from property tax assessments as fixed by the county tax assessor must be heard and resolved before there can be a tax liability.

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