

1980 S.C. Op. Atty. Gen. 38 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-15, 1980 WL 81899

Office of the Attorney General

State of South Carolina

Opinion No. 80-15

February 4, 1980

**\*1 SUBJECT: Taxation and revenue, Property Tax—Determination of Ownership for Ad Valorem Tax Purposes; Taxation and revenue, Ad Valorem tax determination of ownership;**

The owner of personal property on December 31, 1979 is required to make a return to the county auditor listing all property owned by him on that date notwithstanding the fact that some property is sold by him in January 1980.

TO: Honorable Walter S. Richburg  
Clarendon County Auditor

QUESTION:

An individual begins to advertise in mid-December 1979, for a close-out sale to be held at which time he will sell items of personal property belonging to and used by him in his logging and farming business. The sale is actually held on January 12, 1980, at which time some of the personal property so advertised is sold. Is the individual required to make a return to the county auditor of all the personal property owned by him as of December 31, 1979 or only that personal property retained by him after the sale in January?

APPLICABLE LAW:

[Section 12-37-900, Code of Laws of South Carolina](#), 1971, as amended.

DISCUSSION:

It is assumed for purposes of this Opinion that the property was in this State, in Clarendon County and otherwise taxable on December 31, 1979. [Section 12-37-900](#) requires a person to list ‘\* \* \* all real and personal property possessed by him or under his control, on the thirty-first day of December next preceding, either as owner, agent, parent, husband, guardian, executor, administrator, trustee, receiver, officer, partner, factor or holder \* \* \*.’

Ownership of property for ad valorem tax purposes is determined as of December 31 next preceding the taxable year. The taxable status of the property is determined on that date.

‘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.’ [Atkinson Dredging Co. v. W. O. Thomas, Jr.](#), 266 S.C. 361, 223 S.E. 2d 592. See also [George F. Hazelwood Company v. J. Stanley Pitsenbarger](#), 149 W. Va. 485, 141 S.E. 2d 314, app. dism. 382 U.S. 201, 86 S. Ct. 392, 15 L.Ed. 2d 268. (Want of substantial federal question.)

CONCLUSION:

The owner of personal property on December 31, 1979 is required to make a return to the county auditor listing all property owned by him on that date notwithstanding the fact that some property is sold by him in January 1980.

\*2 Jackson E. Fields, Jr.  
Assistant Attorney General

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