

1980 S.C. Op. Atty. Gen. 105 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-54, 1980 WL 81937

Office of the Attorney General

State of South Carolina

Opinion No. 80-54

May 16, 1980

***1 SUBJECT: Estate Tax Returns—Disclosure Under Chapter 1 of Title 30.**

Estate tax returns made secret by § 12–15–1615 are not to be released to the Department of Archives and History. Security copies may be maintained, however, by the Department when necessary and such is done with the approval of the Tax Commission and the Department.

TO: Mr. William R. Geddings, Jr.MAD1#Director
Estate and Gift Tax Division
South Carolina Tax Commission

QUESTION:

May the estate tax returns be released by the South Carolina Tax Commission under Chapter 1 of Title 30 of the Code of Laws to the Department of Archives and History?

APPLICABLE LAW:

§§ 12–15–1615 and 30–1–10, et seq., 1976 Code of Laws.

DISCUSSION:

Section 12–15–1615 provides in part that:

'Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the members of the Tax Commission, any deputy, agent, clerk, or other officer or employee, or former employees or officers to divulge or make known in any manner the report or return, as compiled in connection with the administration and enforcement of Chapters 15 and 17 of Title 12 of the 1976 Code. The provisions of this section shall apply to all reports and returns filed before or after enactment of this section. * * *.

Any offense against this section shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the State, he shall be dismissed from office and be incapable of holding any public office in this State for a period of five years thereafter.'

The statute as set forth above provided for severe penalties for violation of the restriction. Such penalties in this case would be imposed upon the personnel of the Tax Commission and not those of the Department of Archives and History. We have consistently construed the provisions for disclosure very strictly with doubt against disclosure.

Here, Section 30–1–10 specifically provides that such records are not open to the public.

* * *. Records such as income tax returns, medical records, scholastic records, adoption records and other records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of §§ 30–1–10 to

30-1-140, nor shall the definition of public records include those records concerning which it is shown that the public interest is best served by not disclosing them to the public; provided, however, if necessary, security copies of closed or restricted records may be kept in the South Carolina Department of Archives and History, with the approval of the agency or political subdivision of origin and the Director of the Department of Archives and History, and, provided, further, that for purposes of records management closed and restricted records may be disposed of in accordance with the provisions of §§ 30-1-10 to 30-1-140 for the disposal of public records. * * *.’

*2 This language does not mandate the release of the restricted returns to the Department of Archives and History. Security copies may be maintained, however, by the Department when the same are necessary and such is done with the approval of the Tax Commission and the Department.

CONCLUSION:

Estate tax returns made secret by § 12-15-1615 are not to be released to the Department of Archives and History. Security copies may be maintained, however, by the Department when necessary and such is done with the approval of the Tax Commission and the Department.

Joe L. Allen, Jr.
Deputy Attorney General

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