

1979 S.C. Op. Atty. Gen. 67 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-50, 1979 WL 29056

Office of the Attorney General

State of South Carolina

Opinion No. 79-50

March 13, 1979

***1 SUBJECT: Property Tax—Listing of Real Property Omitted From Tax Duplicate.**

Real property omitted from the county duplicate is to be entered on the duplicate for the current year in accordance with § 12–39–220, however, no penalty is to be added for such omission.

TO: Honorable Patricia T. Antley
Richland County Auditor

QUESTION:

Act 175, Acts of 1963, eliminates the requirement for real estate and improvements to be returned for taxation in Richland County. Section 12–39–220 requires that property that was omitted from a duplicate be entered on the current duplicate and for penalties if the omission was caused by a failure to return the property. By reason of the 1963 Act, is the penalty to be levied in Richland County?

APPLICABLE LAW:

Act 175, Acts of 1963, and [§ 12–39–220 of the 1976 Code](#) of Laws.

DISCUSSION:

The 1963 Act provides:

‘Notwithstanding the provisions of Sections 65–1614 and 65–1616, returns of real estate and improvements thereon shall not be required on real estate situated in Richland County nor shall any penalty be assessed or collected for any failure to make such return.’

[Section 12–39–220](#) provides:

‘If the county auditor shall at any time discover that any real estate or new structure, duly returned and appraised for taxation, has been omitted from the duplicate, he shall immediately charge it on the duplicate with the taxes of the current year and the simple taxes of each preceding year it may have escaped taxation. And if the owner of any real estate or new structure thereon, subject to taxation, has not reported it for taxation, according to the requirements of this chapter, and it has not been appraised for taxation, the auditor shall, upon discovery thereof, appraise it and, upon making return of such appraisal, shall charge it upon the duplicate, with the taxes of the then current year and the taxes of each preceding year it may have escaped taxation, with twenty per cent penalty upon such taxes of preceding years. And if any real estate shall have been omitted in any return, the auditor of the county shall appraise it immediately for taxation, file such appraisal in his office and charge it with the taxes of the current year and the simple taxes of preceding years it may have escaped taxation.’

The General Assembly by the 1963 Act removed the requirement that the real estate or improvement be returned. The penalty provided by § 12-39-220 is to be levied when the return is required and not made. Under the language of Act 175 no return is required and no penalty is due, however, the omitted property is to be entered on the duplicate for the current year as otherwise provided by § 12-39-220.

CONCLUSION:

Real property omitted from the county duplicate is to be entered on the duplicate for the current year in accordance with § 12-39-220, however, no penalty is to be added for such omission.

Joe L. Allen, Jr.

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