

1980 WL 120887 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 22, 1980

***1 SUBJECT: Property Tax—Refund of Tax Overpayments or the Abatement of a Penalty.**

The Nulla Bona Committee is without authority to abate or refund a tax and such authority cannot be conferred upon the Committee except by statewide action of the General Assembly.

APPLICABLE LAW: Article VIII, Section 7; Article X, Section 6 of the South Carolina Constitution; Sections 12-47-410, 12-47-420, 12-45-190 and 4-9-30 of the 1976 Code of Laws.

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QUESTION:

Under Act No. 998 or any other provision of state law, can the Nulla Bona Committee abate or refund taxes or penalties, or can the Nulla Bona Committee be given this authority by the County Council, successor to the Board of Administrators?

DISCUSSION:

The General Assembly has exclusive power to levy taxes, [Carroll v. York](#), 109 S.C. 1, 95 S.E. 121. Article X, Section 6 authorizes the delegation of the tax to the political subdivisions. A delegation to levy and collect the tax is provided by [Section 4-9-30](#), however, the same is subject to the general law. There is no authority vested in a county to refund taxes except that provided by [Section 12-47-70](#), et seq. This delegation is not to the Nulla Bona Committee but to other county officers. The section further precludes a refund by such officers when value is the issue. The refund of a tax is a matter of governmental grace. 'A refund of taxes is solely a matter of governmental grace, and any person seeking a refund must bring himself clearly within the terms of the authorizing statute.' [Asmer v. Livingston](#), 225 S.C. 341, 82 S.E.2d 465.

[Sections 12-47-40, 12-47-410 and 12-47-420](#) in certain cases authorize the abatement or refund of taxes and are exclusive. [Section 12-45-190](#) provides the only authority to abate or remit a penalty and a county could not enlarge or restrict the provision.

The conclusion hereinafter set forth is fortified by the constitutional requirement of equality and uniformity in taxation and equal protection of the laws. No reason exists to penalize one person in one county for failing to comply with a state statute and exempting a person in a different county for the same act. The same would apply to the refund of a tax.

CONCLUSION:

The Nulla Bona Committee is without authority to abate or refund a tax and such authority cannot be conferred upon the Committee except by statewide action of the General Assembly.

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