

1980 S.C. Op. Atty. Gen. 150 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-95, 1980 WL 81977

Office of the Attorney General

State of South Carolina

Opinion No. 80-95

September 9, 1980

***1 SUBJECT: Property Taxes—Bulk Transfers Include Taxes**

Taxes due a county are a debt and the county is a creditor for purposes of the Bulk Transfer Chapter of the Uniform Commercial Code, § 36–6–101, et seq.

TO: Peter D. Hyman, Esq.
Florence County Attorney

QUESTION:

Is the county a creditor and unpaid taxes a debt within the Bulk Transfer Chapter of the Uniform Commercial Code?

APPLICABLE LAW:

§ 12–49–10 and Chapter 6 of Title 36, Uniform Commercial Code.

DISCUSSION:

Section 12–49–10 declares the tax to be a debt.

‘Amount due for taxes is a debt against the person listing the property for which he may be sued.’ [American Surety Co. v. Mills](#), 194 S.C. 221, 9 S.E.2d 433; see also [Valentine v. Robinson](#), 188 S.C. 194, 198 S.E. 197; [Weatherly v. Medlin](#), 141 S.C. 290, 139 S.E. 633; [Fuller v. Payne](#), 96 S.C. 471, 81 S.E. 176.

A county is also a creditor within the Bulk Transfer Chapter.

‘There is no question but that Couch owed the taxes as claimed. They were obligations arising by operation of law. * * *. Since they were obligations, Couch was a debtor and the county a creditor within the plan purport of §§ 7216 and 7285 * * * (Bulk Sales Act).’ [Lindstrom v. Spicher](#), 205 N.W. 231, 41 A.L.R. 968, (North Dakota).

Exceptions to the statute are provided by § 36–6–103, however, the same do not apply to taxes.

CONCLUSION:

Taxes due a county are a debt and the county is a creditor for purposes of the Bulk Transfer Chapter of the Uniform Commercial Code, § 36–6–101, et seq.

Joe L. Allen, Jr.
Deputy Attorney General

1980 S.C. Op. Atty. Gen. 150 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-95, 1980 WL 81977

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.