

1978 S.C. Op. Atty. Gen. 11 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-3, 1978 WL 22493

Office of the Attorney General

State of South Carolina

Opinion No. 78-3

January 6, 1978

\*1 (1) The governing body of Union County may by ordinance require a permit to move a mobile home provided the same does not conflict with [Section 31-17-310 of the 1976 Code](#) of Laws and the permit is a means to insure payment of the ad valorem taxes.

(2) A person that owns a mobile home on December 31 preceding the tax year and subsequently sells the same is liable for the tax.

(3) The lien for unpaid property taxes attaches to and follows the property.

TO: William E. Whitney, Jr., Esquire  
Union County Attorney

#### QUESTION I

May the governing body of Union County by ordinance require a permit as a condition to the movement of a mobile home from one point in the County to another, from a point outside the County to a point within the County or from a point within the County to a point without the County?

#### APPLICABLE LAWS

[Sections 4-9-30\(5\) and \(14\)](#) and [31-17-310, et seq. of the 1976 Code](#) of Laws.

#### DISCUSSION

The governing body has the authority conferred by [Section 4-9-30\(5\)](#) to levy an ad valorem property tax upon mobile homes. Your inquiry relates to the power of the governing body to require a permit to move the mobile home so as to enhance or insure the collection of this tax. Subsection 14 of [Section 4-9-30](#) provides authority to the governing body to: '(14) to enact ordinances for the implementation and enforcement of the powers granted in this section and provide penalties for violations thereof not to exceed the penalty jurisdiction of magistrates' courts. Alleged violations of such ordinances shall be heard and disposed of in courts created by the general law including the magistrates' courts of the county. County officials are further empowered to seek and obtain compliance with ordinances and regulations issued pursuant thereto through injunctive relief in courts of competent jurisdiction. No ordinance including penalty provisions shall be enacted with regard to matters provided for by the general law, except as specifically authorized by such general law; and \* \* \*.' (Emphasis added)

The underscored provision, however, precludes any such ordinance that conflicts with 'matters provided for by the general law.' [Section 31-17-310, et seq. of the 1976 Code](#) requires a license when a mobile home is brought into the State or that is purchased within the State for business or dwelling purposes. The subsequent sections impose a penalty for failure to obtain the license when such occurs. The governing body would be without authority to enact an ordinance

that requires a permit to bring a mobile home into the State or for the purchase of a mobile home within the State. Such, however, would not preclude the governing body from, by ordinance, requiring a permit to move the mobile home from a point within the County to another location within the County or from within the County to a point or location without the County. This conclusion is fortified by the provisions of [Article VIII, Section 17 of the Constitution](#) that require a liberal construction of [Section 4-9-30](#).

### CONCLUSION

\*2 The governing body of Union County may by ordinance require a permit to move a mobile home provided the same does not conflict with [Section 31-17-310 of the 1976 Code](#) of Laws and the permit is a means to insure payment of the ad valorem taxes.

### QUESTION II

I would also like to know if a person has been living in and owning a mobile home from January 1 to August 2, for example, then sells the mobile home on August 2, to another party who retains it through December 31st, then who is responsible for that year's taxes?

### APPLICABLE LAW

[Section 12-37-900 of the 1976 Code](#) of Laws; [Atkinson Dredging Co. v. Thomas](#), 266 S. C. 36, 223 S. E. 2d 592.

### DISCUSSION

The above referred to section requires a return of property owned on December 31 preceding the tax year. In example, property owned and taxable on December 31, 1976 would be taxable to such person for 1977 notwithstanding the fact that the property is disposed of by the owner at some subsequent date. This is best illustrated by the language of the court in the [Atkinson](#) case.

“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.”

### CONCLUSION

A person that owns a mobile home on December 31 preceding the tax year and subsequently sells the same is liable for the tax.

### QUESTION III

Does the lien for unpaid taxes attach to the property, the value of which generates the tax?

### APPLICABLE LAW

[Section 12-49-10, 1976 Code](#) of Laws.

DISCUSSION

The above statute provides that the tax shall be a first lien upon the property taxed and this lien follows the property, notwithstanding that the debt is that of the owner.

CONCLUSION

The lien for unpaid property taxes attaches to and follows the property.

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