

1978 S.C. Op. Atty. Gen. 248 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-215, 1978 WL 22683

Office of the Attorney General

State of South Carolina

Opinion No. 78-215

May 1, 1978

**\*1 SUBJECT: Notice of Property Tax Assessment**

A person is entitled to notice under § 12-41-130 and [§ 12-43-300 of the 1976 Code](#) of Laws for change in assessment resulting from valuation adjustments and because of classification changes.

TO: Mr. James L. Brodie  
Supervisor-Reassessment

**QUESTION:**

If an assessment increases more than \$100.00 due to a change in classification with no change in the appraisal, is the Assessor required to notify the taxpayer of this increase in the assessment?

**STATUTES:**

§ 12-41-130 and [§ 12-43-300 of the 1976 Code](#) of Laws.

**DISCUSSION:**

[Section 12-41-130 of the 1976 Code](#), formerly § 65-1851 of the 1962 Code, states:

‘Whenever the valuation and assessment of any property is fixed \* \* \* at a sum greater by one hundred dollars or more than the amount returned by the owner or his agent, or whenever any property is valued and assessed for taxation which has not been previously returned or assessed, the county auditor shall \* \* \* give to the owner of such property or his agent written notice thereof. \* \* \*.’

[Section 12-43-300 of the 1976 Code](#), enacted as part of Act 208 of the Acts of 1975, states:

‘Whenever the market value estimate of assessed value of any property is fixed by the assessor at a sum greater by one hundred dollars or more than the amount returned by the owner or his agent, or whenever any property is valued and assessed for taxation which has not been previously returned or assessed, the assessor shall, \* \* \* give written notice thereof \* \* \*.’

Due process requires notice to the taxpayer of the valuation or assessment of his property. In 72 Am.Jur.2d, State and Local Taxation, § 782, at page 100, the principle is generally stated:

‘At some stage before a tax becomes irrevocably fixed as a charge on a taxpayer's property, he must have an opportunity, of which he shall have notice, to be heard as to the validity and extent of the tax and his liability thereto. He must be given opportunity to question the validity of the tax, the taxability of his property, and the amount of the assessment against the property. It is a fundamental requirement of the constitutional guaranty of due process of law that the person to be affected by the laws for the taxation of his property must have some notice of the proceeding to be had against

his property, and opportunity in some form to be heard before any portion of his estate is seized for the support of the government; all laws which permit of the taxation of property without these safeguards are lacking in due process and are unconstitutional and void. A property owner must at some time have an opportunity, as a matter of right and not of grace, to appear and be heard on the question of valuation before some tribunal which has jurisdiction to determine the true value of the property.'

CONCLUSION:

It is the opinion of this office that a property owner is entitled to notice pursuant to [§ 12-41-130](#) and [§ 12-43-300 of the 1976 Code](#) of the change in an assessment from the amount returned and notice of the assessment where property has never been returned or taxed, whether the assessment changes result from valuation adjustments or classification and ratio changes.

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