

1978 S.C. Op. Atty. Gen. 112 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-84, 1978 WL 22565

Office of the Attorney General

State of South Carolina

Opinion No. 78-84

May 5, 1978

***1 SUBJECT: Enforcement of the General Laws and Regulations Relating to the Duties and Requirements of County Auditors and Assessors.**

(1) The Tax Commission is required to review the actions of the county assessors and auditors in regard to the valuation of real and personal property and is required to enforce the provisions of the Constitution and law requiring property to be uniformly and equally assessed.

(2) The Commission's authority in regard to questions and issues unrelated to equalization and reassessment is general and must be coordinated with the specific procedures and requirements of the Comptroller General.

TO: Mr. James L. Brodie
Supervisor-Reassessment

QUESTIONS:

(1) If it comes to the attention of the South Carolina Tax Commission that a county is not meeting the requirements of uniformity, equity and the level of appraisal and assessment as required by law, is the Tax Commission duty-bound to require the county to meet minimum standards and if so, by what statutory authority and/or regulations? In addition, if the Tax Commission has the authority to require the above, may they put the county on a reasonable timetable to achieve the requirements of the law subject to proper punitive action by an order or some other legal authority?

(2) If it comes to the attention of the Commission that the Assessor's Office and Auditor's Office is not adhering to the statutory requirements or regulations governing their office, is the Commission duty-bound to require these respective offices to adhere to the law and if so, what form of statutory action may be taken to require compliance?

STATUTES:

[§ 12–3–140, Code of Laws of South Carolina](#), 1976; Act 208, Acts of 1975; Act 618, Acts of 1976.

In response to Question 1.

DISCUSSION:

Act 208 of the 1975 Acts, codified for the most part as Article 1, Chapter 43 of Title 12 of the 1976 Code of Laws, and as amended by Act 618 of the 1976 Acts, relating to the equalization and reassessment of property for ad valorem taxation, includes new provisions pertaining to the responsibilities of the South Carolina Tax Commission. The responsibilities set forth in these provisions restate and add to the responsibilities formerly imposed by § 65–64 of the 1962 Code of Laws.

The two pertinent provisions of Act 208 and Act 618 pertaining to the question here presented are as follows.

Section 2 of Act 618 of the 1976 Acts amends [§ 12-43-210 of the 1976 Code](#) (Section 1 of Act 208 of the 1975 Acts) and provides:

‘All property shall be uniformly and equitably assessed throughout the State. The South Carolina Tax Commission (Commission) shall promulgate rules and regulations to issue such equalization which shall be adhered to by all assessing officials in the State.’

[Section 12-43-260 of the 1976 Code](#) (Section 11 of Act 208, 1975 Acts) provides:

‘Any county which willfully fails to comply with the provisions of this article shall not be entitled to twenty percent of the allocation of the taxes as provided for in the General Appropriations Act for State Aid to Subdivisions. The Commission shall make application to the circuit court for a determination as to whether or not such county meets the requirements of this article. The Commission shall then, based on this determination, certify to the State Treasurer that such county meets the requirements of this article before any tax allocation is made to the county.’

***2** The former section clearly makes it the duty of the assessor to adhere to the instructions of the Tax Commission. The latter section is not limited to the assessors but makes it the responsibility of the county to comply with the provisions relating to the equalization and assessment of property.

Both of these sections must be read together with the provisions in [§ 12-3-140 of the 1976 Code](#) of Laws which grant to the Commission the power to enforce the provisions of laws relating to property taxes. The following are singled out specifically:

‘The Commission shall have and exercise all the powers conferred by law upon the former State Board of Equalization and upon the former State Board of Assessors prior to February 20, 1915 and:

(2) Shall prepare suitable forms for the listing of property each year, arrange and classify the items of all property in groups and classes and from time to time change and separate or consolidate the same as it may deem advisable for securing more accurate information concerning, and the more perfect listing and valuation of, all property;

(3) Shall (a) confer with, advise and direct assessors and boards of equalization as to their duties under the laws of the State and to that end call meetings of all assessors in each county, to be held at the county seat of such county or elsewhere most convenient, or at the Capitol, for the purpose of necessary instruction from the Commission as to the law governing the assessment and taxation of all classes of property and (b) formulate and prescribe rules to govern such assessors and boards of equalization in the discharge of their duties which shall be obeyed and carried out by such assessors and boards of equalization;

(4) Shall (a) direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to penalties, liabilities and punishment of public officers and officers and agents of corporations for failure or neglect to comply with the provisions of the laws of this State governing the assessment and taxation of property and such rules of the Commission and (b) cause complaints to be made against assessors, boards of equalization or other assessing and taxing officers to the proper authority for their removal from office for official misconduct or neglect of duty;

(5) Shall require the Attorney General or circuit solicitor to assist in the commencement and prosecutions of actions and proceedings for penalties, forfeitures, removals and punishment for violation of the laws of this State in respect to the assessment and taxation of property in the respective districts of such solicitors;

(10) Shall carefully examine into all cases in which evasion or violation of the laws of the State relating to the assessment and taxation of property is complained of or discovered and into all cases in which property subject to taxation has not been assessed or has been fraudulently or for any reason improperly or unequally assessed or the laws in any manner

evaded or violated and shall cause to be instituted such proceedings as will remedy improper or negligent administration of the taxing of the property of the State;

***3** (14) Shall require county auditors to place upon the assessment rolls omitted property which may be discovered to have for any reason, in whole or in part, escaped assessment and taxation in the current or previous years;

(15) Shall order reassessment of real and personal property, or any class or classes of either, in any assessment district when, in the judgment of the Commission, such reassessment is advisable or necessary to the end that all classes of property in such assessment district shall be assessed in compliance with the law and for that purpose may require the assessors making the original assessment to make such reassessment or, if the Commission deem it advisable, it may appoint a special county assessor and deputy assessors under him to reassess all or any real or personal property, or any class or classes of either, in any assessment district, whether or not the same has been equalized by any board, the county board of equalization or the Commission;

(19) Shall (a) prepare appropriate manuals, guides and other aids for the equitable assessment of all properties and prepare suitable forms for an adequate listing and description of each item, (b) upon the request of any county legislative delegation, assist and direct the training of assessors and (c) upon the request of any county legislative delegation, institute and direct a program of reassessment of all property in such county, so that all property shall be properly and equitably assessed;'

The above provisions make it the duty and responsibility of the Tax Commission to oversee the valuation and assessment of property taxes. With regard to real property assessed by the county assessors, this authority is clearly imposed in Act 208 of 1975 and Act 618 of 1976. The duty of the Commission to insure that assessors are complying with the Constitution and laws relating to uniformity and equality of taxation is as great as the duties of the Commission in regard to the assessment of properties which the Commission under the laws is charged with assessing, i.e., manufacturers, utilities, etc.

With regard to personal property within the assessing jurisdiction of the county auditors, the provisions of [§ 12-3-140](#) are applicable. Such provisions clearly make it the duty of the Commission to enforce the taxing laws in order that all property might be uniformly and equitably taxed.

In the event that the Commission is not satisfied that property is being properly valued and assessed it has a responsibility to take appropriate action to insure the proper action and may further take action under the provisions of §12-43-260 of the 1976 Code of Laws to have allocations withheld from the counties.

It would be reasonable for the Commission to place a county on a reasonable schedule under Commission supervision if it is determined that the county has a deficient equalization and assessment program. However, such should not be interpreted as to permit the county to delay the implementation of a reassessment program when action of the Commission could immediately correct the deficiency.

CONCLUSION:

***4** The Tax Commission is required to review the actions of the county assessors and auditors in regard to the valuation of real and personal property and is required to enforce the provisions of the Constitution and law requiring property to be uniformly and equally assessed.

In response to Question 2.

DISCUSSION:

The provisions of law set forth above in response to Question 1 are applicable to Question 2. We believe that the conclusions set forth above apply in response to the second question. We emphasize however, that the provisions more specifically relate to equalization and reassessment and any action taken by the Commission in respect to questions and issues unrelated to equalization and reassessment should coordinate with the procedures and requirements of the Comptroller General in respect to such issues.

CONCLUSION:

The Commission has specific authority and responsibility to insure that all property is uniformly and equally assessed. Its authority in regard to questions and issues unrelated to equalization and reassessment is general and must be coordinated with the specific procedures and requirements of the Comptroller General.

G. Lewis Argoe, Jr.
Senior Assistant Attorney General

1978 S.C. Op. Atty. Gen. 112 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-84, 1978 WL 22565

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.