

1974 WL 27603 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 21, 1974

*1 (1) Motor vehicles owned on December 31 and not registered or licensed with the S. C. Highway Department are subject to property taxation during that tax year.

(2) The 406 form for the owners of such vehicles cannot be issued because the auditor must place such motor vehicles on the tax duplicate.

Honorable J. Clint McClain
Auditor
Anderson County
Anderson County Court House
Anderson, South Carolina 29621

Dear Mr. McClain:

Reference is made to your letter of January 16, 1974, and to the request for the opinion of this office of whether motor vehicles owned by individuals during the months of October, November and December preceding the tax year, but not registered or licensed with the Highway Department, are subject to property taxation. Section 65-1521 of the Code provides:

‘All real and personal property in this State * * * shall be subject to taxation.’

Section 65-1624 provides in part as follows:

‘Every person of full age and of sound mind shall annually list for taxation the following personal property, to wit:

(1) All the tangible personal property in the State owned or controlled by him;’

Section 65-1644 requires all persons to file returns and list personal property owned by them as of December 31 preceding the tax year.

It is therefore the opinion of this office that the motor vehicles owned by individuals on December 31 preceding the tax year, whether registered or licensed by the Highway Department, are subject to ad valorem taxation.

You further inquire whether Form 406 should be issued when applied for by the owner after January 1, and when the taxes on the vehicle have not been paid. Section 65-1775 provides as follows:

‘The auditor shall, at any time after making his return, if he ascertain that any personal property in his county has not been listed, list it and make return thereof, with the valuation thereof as fixed by the owner or himself and the name of the owner or person to whom it is taxable, and he shall charge it on the duplicate for taxation, adding ten per cent to the value as returned as penalty.’

The motor vehicles above described should be, therefore, put on the tax rolls with the applicable penalty and after the entry is made on the assessment rolls, the 406 cannot be issued until the tax has been paid. In addition to the requirement for the 406 form, the applicant could not comply with the provisions of Section 46-17.1 until the taxes are paid.

Yours very truly,

Joseph Allen, Jr.
Assistant Attorney General

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