

1974 S.C. Op. Atty. Gen. 65 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3710, 1974 WL 21229

Office of the Attorney General

State of South Carolina

Opinion No. 3710

February 11, 1974

***1 In many counties the duties for collection of delinquent unemployment contributions have been transferred to the County Treasurer.**

General Counsel

S. C. Employment Security Commission

This is in reply to your request for an opinion of this office with regard to the question of responsibility for collection of employer contributions which are delinquent under the terms of Title 68 of the Code which contains the Unemployment Compensation Law. The Title is a taxing law which imposes an excise tax. See the cases of *Ulmer v. Daniel*, 193 S. C. 193, 7 S. E. 2d 829 and *Pickelsimer v. Pratt*, 198 S. C. 225, 17 S. E. 2d 524. Additional authority for the fact that the contributions are taxes is found in Section 68–207 which provides that liens for contribution shall 'be entitled to the same priorities as other tax liens'.

Section 68–208 provides for the collection of delinquent contributions by the issuance of a warrant of execution directed to the sheriff or tax collector of any county commanding him to levy upon and sell the real and personal property of the delinquent employer. The duties imposed on the sheriff or tax collector with respect to collecting the tax are specifically enumerated in Section 65–209 of the Code.

In many counties the sheriff's duties and responsibilities for delinquent tax collection were transferred to tax collectors. See Chapter 20 of Title 65 of the Code. For certain counties, recent legislation has transferred these duties and responsibilities to county treasurers and abolished the office of tax collector. It is the opinion of this office that where the duty of collecting taxes has been transferred from the tax collector to the county treasurer, the treasurer has the responsibility of collecting the delinquent unemployment contribution tax.

It will, of course, be necessary to trace the specific legislation for each county in order to determine what duties have been transferred. You have specifically mentioned Kershaw County. The General Assembly has made the office of Kershaw County Treasurer responsible for the duties formerly held by the county tax collector and has abolished that office. See Act No. 1465, Acts and Joint Resolutions of 1972 at 2682. By virtue of this Act and Sections 68–207 and 68–208 of the Code, the treasurer will have the duty to levy and sell the real and personal property of the delinquent employer when a warrant is issued to him by the Employment Security Commission.

If we can be of any assistance to you or to any county treasurer in this matter, please let us know.

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