

1974 WL 27819 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 18, 1974

*1 It is doubtful that a municipality could expend funds to publish a list of delinquent taxpayers when such list is not otherwise required for purposes of execution and sale of the property of the delinquent taxpayer.

Honorable Franklin R. Clark
Councilman
The Town of Clover
Clover, South Carolina 29710

Dear Mr. Clark:

Your letter of June 14, 1974, requesting the opinion of this office of whether the Town of Clover could publish a list of persons that owe delinquent property taxes and the amounts thereof, has been referred to this writer for attention and reply.

We find no statute that specifically treats this matter and it is assumed that your inquiry is whether the Town may publish in a newspaper or magazine this information in the form of a paid advertisement by the Town. The tax records of the Town are public records and, in that sense, whether a person has or has not paid taxes and the amounts thereof is published. We, therefore, consider only the issue of whether the Town may by ordinance appropriate funds for the purpose of buying advertising space in a publication for this purpose. The authority for such is not found in Section 47-61 because this section relates to police powers of the Town and not to those relating to revenue.

Our Supreme Court, in the case of [Southern Fruit Company vs. Porter](#), 188 S. C. 422, 199 S. E. 537, quoted with approval from the case of [Charleston Consol. Ry. & Lighting Co. v. City Council of Charleston](#), 92 S. E. 127, 75 S. E. 390, as follows:

“It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation—not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied.”

The authority for the municipality to impose the tax is found in Section 47-241 for cities containing over one thousand inhabitants and in Section 47-161 for cities or towns of less than one thousand inhabitants. The General Assembly has further provided in Sections 47-168 and 47-253 for the collection of any unpaid taxes and has generally prescribed that the law applicable to the collection of State and County taxes be used. These sections provide a lien on the property taxed and for the execution, levy and sale of the defaulting taxpayer's property. We find no authority expressed in the general statutes for the publication by the County or the State of a list of unpaid taxes with the taxpayer's name and the amount thereof set forth, except for Beaufort County and such is found in Section 65-2800.

In the absence of expressed legislative authority for the publication of such a list by means of the expenditures of town revenue, it is doubtful that such can lawfully be done. As stated above, however, we find no statutory authority that expressly prohibits such, therefore the ultimate determination of whether such a publication constitutes an illegal expenditure of municipal funds can only be determined by the courts.

*2 We hope the above will be helpful, and with best wishes, I am
Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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