

1973 S.C. Op. Atty. Gen. 29 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3457, 1973 WL 20921

Office of the Attorney General

State of South Carolina

Opinion No. 3457

January 16, 1973

***1 A 406 Form cannot be issued if taxes for prior years are owed on the motor vehicle even though (1) the name of the proprietorship has changed, or (2) the ownership of the vehicle has changed.**

Beaufort County Treasurer and Tax Collector

This is in reply to the letter of your office dated December 11, 1972, in which you request an opinion concerning the issuance of the statement prescribed by Section 46–17.2 of the Code. The statement, commonly referred to as a 406 form, is to be signed by the county treasurer as a representation to the South Carolina Highway Department ‘that there are no personal property taxes due and unpaid on any motor vehicle listed on the county tax rolls as being owned by the license plate applicant * * *.’ The receipt of this form is a prerequisite to the issuance of motor vehicle license plates and is a method of enforcing the payment of county property taxes on vehicles.

You have asked two questions. First, whether a 406 form should be issued to an applicant who previously listed a vehicle in the name of a former business and now lists the same vehicle in the name of a new business. Personal property taxes were not paid on the vehicle when listed in the name of the former business. You state that neither of these businesses are incorporated.

It is the opinion of this office that under these circumstances, the treasurer should not issue a 406 form to the applicant. The fact that the vehicle was returned in the name of a proprietorship does not change the ownership of the vehicle. The true owner of the vehicle is the proprietor. See 34A Words and Phrases, p. 463. The vehicle must be listed in the name of the true owner. See Section 65–1758 of the Code, and the case of [Koth v. Pallachuocola Club](#), 79 S. C. 514, 61 S. E. 77 (1908).

The second question is whether a 406 form should be issued to a wife when the vehicle was owned by her husband in prior years and the husband did not pay the property taxes on the vehicle.

It is assumed that the wife is now the true owner, and that the vehicle is properly listed in her name on the tax roll. Under these facts, there are still county taxes due and unpaid on the vehicle which is now listed in the wife's name. It is therefore the opinion of this office that a 406 form should not be issued to the wife.

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