

1973 S.C. Op. Atty. Gen. 129 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3517, 1973 WL 20977

Office of the Attorney General

State of South Carolina

Opinion No. 3517

April 26, 1973

***1 A county treasurer has no authority to withhold the issuance of the certificate required by Section 46–17.2 of the Code due to the applicant's failure to pay city taxes.**

Treasurer

Dillon County

This is in reply to your letter of April 24, 1973, in which you request the opinion of this office on whether a county treasurer can withhold the issuance of a 406 Form from an applicant who has paid county taxes due on a motor vehicle until city taxes have been paid on the vehicle.

The 406 Form required by Section 46–17.2 of the Code is a prerequisite to the issuance of motor vehicle license plates. The form is ‘a statement signed by the county treasurer * * * 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.’

Section 46–17.3 provides a penalty for those persons who use the 406 Form to obtain license plates ‘unless all municipal personal property taxes * * * have been paid.’ Notice of this penalty is to be stamped on the face of the 406 Form.

The fact that Section 46–17.2 refers to vehicles ‘listed on the county tax rolls’ leads to the conclusion that the section applies only to county taxes. This conclusion is fortified by the fact that a penalty is provided for those who pay only county taxes, obtain a 406 Form, and use this form to obtain license plates. If the General Assembly had intended that the 406 Form not be issued before city taxes had been paid, there would have been no reason for enactment of Section 46–17.3. It is presumed that the legislature by enacting a statute would not do a futile thing. *McLeod v. Montgomery*, 244 S. C. 308, 136 S. E. 2d 778 (1964).

It is therefore the opinion of this office that a 406 Form cannot be withheld on the ground that city taxes have not been paid.

John C. von Lehe

Assistant Attorney General

South Carolina Tax Commission

1973 S.C. Op. Atty. Gen. 129 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3517, 1973 WL 20977

End of Document

© 2020 Thomson Reuters. No claim to original U.S. Government Works.