

1973 S.C. Op. Atty. Gen. 152 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3529, 1973 WL 20989

Office of the Attorney General

State of South Carolina

Opinion No. 3529

May 23, 1973

**\*1 There is no statutory authority for a county to add a penalty to the current year's tax duplicate because a taxpayer did not make a return of his personal property for the year.**

Representative  
Richland County

This letter is written responding to your request for an opinion of this office whether or not there is authority for a county to assess a penalty for the current year because a person failed to make a personal property tax return.

Chapter 18 of Title 65 of the South Carolina Code of Laws relates to the assessment of property taxes. Among the provisions contained in this chapter are two sections, namely 65–1636 and 65–1775, providing for penalties where personal property has not been returned or listed.

Section 65–1636 provides:

‘If any person shall fail to list the personal property he is required by law to list in any one year *and it escapes taxation for that year*, the value thereof shall be charged against him for taxation in any *subsequent year*, with a ten per cent penalty added thereto, and the taxes and penalty collected as in other cases.’ (Emphasis Added)

Section 65–1775 provides:

‘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.’ (Emphasis added)

The two statutes set out above are the only sections which provide for penalties for failure to return or list personal property, and both of these sections provide that a penalty shall be assessed by the auditor if unreturned or unlisted property escapes taxation and is later found to have escaped taxation.

The courts have generally held that statutory provisions which work a forfeiture or which inflict penalties must be construed strictly and that any doubts in their application must be resolved against the taxing authority and in favor of the taxpayer. See *West's South Carolina Digest 17, Key No. 240 and Key No. 245*.

Both Sections 65–1636 and 65–1775 are penal statutes. They provide for a penalty when personal property goes untaxed for a year or when property is not listed on the return or duplicate list which must be submitted by September 30 of the tax year to the Comptroller General. (See Sections 65–1766 and 65–1768.) We must therefore conclude that there is no statutory authority for a county to add a penalty to the current year's tax duplicate because a taxpayer did not make a return of his personal property for the year.

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