

1973 WL 27051 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 21, 1973

*1 The liability for county property taxes attaches and comes a debt of the person owning the property on December 31st of the year preceding the tax year, notwithstanding the fact that the property has been transferred after that date.

Mr. M. L. Long
Saluda County Tax Assessor
Saluda, South Carolina 29138

Dear Mr. Long:

This is in reply to your letter of June 11, 1973, and to conversations thin writer had with you and with the county attorney. In this correspondence two questions have been asked. The first question concerns the amount of property tax assessments certified to Saluda County by the South Carolina Tax Commission pursuant to the direction of Section 65-1669 of the Code which requires the Commission to fix the value of merchants' inventories and certify this value to the county auditors. I have asked the Property Tax Division to furnish this office with the amounts of the assessments in question. Enclosed is a copy of the memorandum I received from the Division.

Secondly, you have asked whether you can collect back taxes from a decedent's estate. The facts as presented in your letter are as follows:

Preceding and during the tax years in question, (1964 and 1965) an individual owned an automobile dealership. On May 4, 1965, the dealership was transferred to a corporation. Additional and unpaid property taxes were later assessed for these years. The individual died in 1970. You have asked whether or not the taxes for the 1964 and 1965 property tax years can be collected from the individual's estate.

Section 65-2701 of the Code provides that county property taxes are a debt. It has been held that this section makes taxes a debt of the person and creates a personal liability capable of sustaining an action at law. See [Weatherly v. Medlin](#), 141 S. C. 290. 139 S. E. 633.

The liability for these taxes attaches on December thirty-first of the year preceding the tax year. See Sections 65-1611, 65-1644 and 65-2702 of the Code. There are numerous opinions of this office so holding. See opinions dated October 24, 1966; December 5, 1966 and December 8, 1966. The general rule is stated in 84 C.J.S., [Taxation](#), Section 93 as follows:

‘Where the date fixed by statute for determination of the taxable status of property falls before the actual assessment, one owning the property on such date may not escape liability for taxation by selling the property before completion of the assessment rolls.’

Your attention is also called to Section 19-476 which sets the order of priority of payment of debts of a decedent. Debts due the public, i.e., taxes, are granted a high priority.

It is the opinion of this office that county taxes which became a debt of the decedent should be paid from his estate, notwithstanding the fact that the property may have been transferred after December thirty-first of the year preceding the tax years in question.

Yours very truly,

John C. von Lehe
*2 Assistant Attorney General
South Carolina Tax Commission

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