

1973 S.C. Op. Atty. Gen. 201 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3559, 1973 WL 21016

Office of the Attorney General

State of South Carolina

Opinion No. 3559

July 2, 1973

***1 A statute that imposes a penalty is not to have retrospective effect in the absence of a very clear declaration thereon.**

Auditor

Allendale County

Your letter of June 27, 1973, requests the opinion of this office on whether, under the provisions of House Bill 2161, you can charge a 10% penalty for the 1973 tax year for the failure of a property owner to file a return or to timely pay a personal property tax.

This Bill has not as yet been approved by the Governor, however, this office is informed that it has passed both the House of Representatives and the Senate. We do not comment on the constitutional aspects of the statute and consider only the question presented of whether the Bill is applicable to the 1973 tax year.

‘A cardinal rule of statutory construction is that an act will not be given retrospective effect in the absence of a very clear provision. South Carolina cases in 30 S. E. Digest 890, Statutes, 263. * * *.’ *Independence Ins. Co. v. Independent Life & Acc. Ins. Co.*, 218 S. C. 22, 61 S. E. 2d 399.

The Bill herein provides no express declaration that the penalty is to be retrospectively assessed and collected and is effective upon the Governor's signature. Bills providing for penalties or taxes are subject to strict construction with doubt resolved against the same. (See 17 S. C. D., Statutes, Section 241 and Section 245 for cases). Here the tax return was due before the enactment of the Bill and hence it is the opinion of this office that there should not be a penalty imposed for the failure to file the 1973 personal property tax return, however, that the penalty is properly collectible for failure to timely pay the taxes in that the taxes are not due and payable until later in the year.

Joe L. Allen, Jr.

Assistant Attorney General

South Carolina Tax Commission

1973 S.C. Op. Atty. Gen. 201 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3559, 1973 WL 21016

End of Document

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