

1973 S.C. Op. Atty. Gen. 238 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3581, 1973 WL 21038

Office of the Attorney General

State of South Carolina

Opinion No. 3581

July 26, 1973

***1 In Aiken County the Treasurer is to request the return of uncollected tax executions and the tax assessor is to approve a return of nulla bona before the tax collector can so return the execution.**

Aiken County Tax Collector

You advise that you have in your possession executions for delinquent taxes on motor vehicles for the 1967, 1968 and 1969 tax years. You further advise that you believe the taxpayers to be no longer in Aiken County and that you would like to nulla bona the executions as uncollectible. You request the opinion of this office concerning your authority to nulla bona the tax executions.

The office of tax collector was created in 1954, 48 St. at Large 1548, now codified as Article 6, Chapter 20, of Title 65. Section 65-2207.4 confers on your office:

‘All powers and duties formerly vested in the sheriff of Aiken County, relative to the collection of delinquent taxes, seizure and sale of property and similar matters * * *.’

The Section further relieves the sheriff of any duties with respect to such items and Section 65-2788 provides the period when uncollectible executions are to be returned by the sheriff to the county treasurer, generally upon written demand of the treasurer. In Aiken County, however, Section 65-2793 provides:

‘No tax executions issued in Aiken County shall be returned and marked ‘nulla bona’ unless such ‘nulla bona’ has been approved or so ordered by the local board of tax assessors of the district in which the property assessed in situate.’

The local boards of tax assessors of Aiken County were abolished by Act No. 124, Acts of 1967, and Section II of the Act provides:

‘In Aiken County, there shall be no Boards of Assessors and the duties of such boards are devolved upon the tax assessor. The present Boards of Assessors are hereby abolished.’

The provisions of Section 65-2793 now require an approval or order from the tax assessor of Aiken County before the execution can be returned as nulla bona.

It is therefore the opinion of this office that the treasurer of Aiken County must make written demand for the return of the uncollectible execution and that the reason for returning the same as uncollectible must be approved by the tax assessor.

Joe L. Allen, Jr.
Assistant Attorney General
South Carolina Tax Commission

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