

1973 S.C. Op. Atty. Gen. 351 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3663, 1973 WL 21114

Office of the Attorney General

State of South Carolina

Opinion No. 3663

November 15, 1973

***1 A city ordinance adopted on September 24, 1973, can be effective for the 1973 tax year.**

Member

House of Representatives

You request the opinion of this office on the effectiveness of an ordinance setting the millage rate for the City of Bennettsville for the 1973 tax year. Your concern is with the date of adoption of the ordinance which was September 24.

The authority for imposing city property taxes stems from Section 47–241 of the Code. That Section vests the responsibility of imposing the tax on the town council. No mention is made of any particular date.

It is assumed from your letter that the tax year of the city is January 1 through December 31 and coincides with that of the county. For county purposes, it has been held that although property taxes affix as a debt on December 31 of the year preceding the tax year, the actual levy cannot be made until the county supply bill is approved and the auditor places an assessment on the property. After a valid levy, the lien for county taxes is held to relate back to the beginning of the year. See *Town of Myrtle Beach v. Holliday*, 203 S. C. 25, 26 S. E. 2d 12. County taxes are due and payable between the fifteenth day of September and the thirty-first day of December, after this assessment.

Although you have not stated when the city taxes become due, it is assumed they will become due after the date of the ordinance setting the millage. It has been held that the levy of a tax by ordinance is within the discretion of the council. See *Home Building and Loan Association v. City of Spartanburg*, 185 S. C. 313, 194 S. E. 139.

No facts have been presented which show any abuse of authority or discretion by the town council, and it is the opinion of this office that the taxing ordinance approved on September 24, 1973, will not be ineffective because of the date of its approval.

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