

1972 S.C. Op. Atty. Gen. 14 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3235, 1972 WL 20383

Office of the Attorney General

State of South Carolina

Opinion No. 3235

January 1, 1972

***1 (1) A property owner in Richland County may appeal from the assessor's valuation to the Richland County Board of Assessment Appeals without formal request.**

(2) In Richland County an increase in valuation is not effective until the year following the reassessment, therefore, where a valuation is under review and is not final, it cannot be put into effect until the year following that in which the assessment becomes final.

Auditor

Richland County

Reference is made to your letter of November 30, 1971, wherein you request the opinion of this office concerning two questions: '1. May a Richland County property taxpayer appeal to the Richland County Board of Assessment Appeals directly without making a formal request for a review of the assessment?'

Section 2 of Act 269, Acts of 1967, creates the Richland County Board of Assessment Appeals and prescribes the duties thereof. The Act provides in part:

'The Board shall meet whenever necessary, but shall meet on the first Tuesday in each month to act on appeals from the assessment of the tax assessor.'

The Act provides for no formal notice or procedure for the appeal and none has been otherwise provided or required insofar as this office can ascertain. We are further informed that the Board has always heard an appeal when the property owner appears at a scheduled meeting, regardless of whether any prior notice was given the Board. This procedure has been in existence for a long period of time, and apparently has legislative recognition, and additionally the application for review can be made orally. *Cooley on Taxation*, Section 1221, citing *Barz v. Board of Equalization, Town of Klemme*, 133 Iowa 563, 111 N. W. 41; *Page v. Melrose*, 186 Mass. 361, 71 N. E. 787.

It is, therefore, the opinion of this office that no formal request or notice for appeal is required for the Board to hear the appeal of the property owner from the assessor's valuation, and further, that the request for the review may be made orally.

The second question provides:

'2. If a formal request for review is made in January or February 1972, can the finding thereafter by the Assessor become effective for the Tax Year beginning December 31, 1971?'

The opinion is requested because of the provisions of Act No. 216, Acts of 1971, that provides in part:

'When any property in Richland County is reassessed, the change in tax resulting from such reassessment shall not be applied to such property until the tax year following such reassessment.'

Stated differently, the question is whether the reassessment is complete when the owner of the property reassessed appeals or seeks review. If the reassessment is complete under such circumstances, then the property is taxable at the reassessed value for the 1972 tax year and conversely if it is not, then because of the 1971 Act the property is not taxable at the reassessed value until 1973.

*2 This office has found only one case where a similar issue was treated and it related to exhausting administrative remedies; however, it is well settled law that the property owner must have the right to object to the assessor's valuation and for a review of the same.

‘A taxpayer must have an opportunity to be heard before his liability is conclusively fixed.’ *Cooley on Taxation*, Section 1205.

Under such a requirement, the reassessment cannot be complete without the right and opportunity for review.

‘The assessment is not complete and is in fieri until it is laid before the board of review.’ *Batton v. Town of Johnson*, 76 Wis. 430, 45 N. W. 412.

It is, therefore, the opinion of this office that under such circumstances the 1971 Act precludes the taxation of the property at the reassessed value for the 1972 tax year.

Joe L. Allen, Jr.
Assistant Attorney General

1972 S.C. Op. Atty. Gen. 14 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3235, 1972 WL 20383