

1972 S.C. Op. Att. Gen. 46 (S.C.A.G.), 1972 S.C. Op. Att. Gen. No. 3256, 1972 WL 20403

Office of the Attorney General

State of South Carolina

Opinion No. 3256

January 27, 1972

**\*1 Subsection (JJ) of Section 14 of Act No. 410, Acts of 1971 (Disposition of Unclaimed Property Act), requires banks to turn over to the Tax Commission unclaimed accounts if the same are less than \$10,000.**

Director

Corporation Income Tax Division

South Carolina Tax Commission

This opinion is written at the request of the Tax Commission and several banks in South Carolina. It pertains to subsection (JJ) of Section 14 of Act No. 410, Acts of 1971, which is a part of the legislation known as the Disposition of Unclaimed Property Act.

Subjection (JJ) reads:

‘Notwithstanding any other provisions of the section, banks shall retain the physical possession of abandoned property which is represented by accounts in such banks which total ten thousand dollars or more. Such accounts shall be collectively maintained in one account under the heading ‘South Carolina Escheat Account’. The bank shall pay the State of South Carolina the maximum interest on the escheat account as provided by law for savings accounts by adding such interest to the escheat account as it is earned. *Provided* that if the funds in the accounts are appropriated by the State for specific purposes, the amounts withdrawn shall be apportioned among all the banks having escheat accounts.’

Several banks in South Carolina contend that subsection (JJ) allows them to retain individual accounts amounting to less than \$10,000 if the total of such accounts collectively amounts to \$10,000 or more. The contention of the Tax Commission is that this subsection allows banks to retain only those accounts which individually amount to \$10,000 or more. The phrase ‘represented by accounts \* \* \* which total ten thousand dollars or more’ is subject to different interpretations, however, in rendering this opinion the rule that a statute must be construed as a whole with a view toward carrying out the purpose and intent of the legislature must be applied. The statute should also be construed in such a manner as to avoid indiscriminate application among those persons subject to its provisions.

With the above in mind, this office has concluded that the statute must be interpreted to require banks to turn over to the Tax Commission individual accounts not amounting to \$10,000. Banks with collective accounts totaling \$10,000 or more under this interpretation would not be treated differently than banks not having collective accounts totaling \$10,000. The Act would thus not be nullified with respect to those banks with accounts collectively totaling \$10,000 or more and the argument that discrimination between large banks and small banks is avoided.

We therefore advise that the Tax Commission should require banks to report and turn over unclaimed accounts if the same are less than \$10,000.

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