CHAPTER 45

County Treasurers and Collection of Taxes

**SECTION 12‑45‑10.** Repealed.

HISTORY: Former Section, titled Appointment, oath and bond of county treasurer, had the following history: 1962 Code Section 65‑1951; 1952 Code Section 65‑1951; 1942 Code Section 2769; 1932 Code Sections 2816, 2789, 4041, 4398; 1925 (34) 122; 1929 (36) 93; 1930 (36) 1174; 1932 (37) 1262; 1934 (38) 1222, 1427; 1935 (39) 171; 1940 (41) 1748. Repealed by 2015 Act No. 87, Section 32, eff June 11, 2015.

**SECTION 12‑45‑15.** County treasurers; continuing education requirements.

 (A) A county treasurer annually shall complete satisfactorily a minimum of eighteen hours of continuing education courses that the department establishes or causes to be established. Failure to complete satisfactorily these courses in any year results in the treasurer forfeiting one thousand dollars of his state salary supplement for the year as is provided in the annual general appropriations act. The content, cost, and dates of the courses must be determined by the department.

 (B) The department, for reasonable cause, may excuse a county treasurer from attending these courses for any year. If excused, the treasurer does not forfeit one thousand dollars of his state salary supplement for that year.

HISTORY: 1990 Act No. 444, Section 2; 1991 Act No. 123, Section 2; 2006 Act No. 386, Section 55.R, eff June 14, 2006.

**SECTION 12‑45‑17.** County tax collector education requirements.

 (A) A person serving as the county tax collector shall complete satisfactorily a minimum of six hours of annual continuing education courses that the department establishes or causes to be established. The content, cost, and dates of the courses must be determined by the department.

 (B) The department, for reasonable cause, may excuse a person serving as the county tax collector from attending these courses for any year.

 (C) The provisions of this section do not apply to a county treasurer who is also the county tax collector and completes satisfactorily the requirements of Section 12‑45‑15.

HISTORY: 2012 Act No. 186, Section 1, eff June 7, 2012.

**SECTION 12‑45‑20.** Term of office; failure to complete term.

 The county treasurer shall hold office for four years and until his successor is appointed or elected and qualified. His term of office shall commence on the first day of July following his appointment or election. When any treasurer for any reason fails to complete his term of office, his successor shall be appointed initially for the unexpired portion of the term for which his predecessor was appointed.

HISTORY: 1962 Code Section 65‑1954; 1952 Code Section 65‑1954; 1942 Code Section 2769; 1932 Code Sections 2789, 2816, 4041, 4398; 1925 (34) 122; 1929 (36) 93; 1930 (36) 1174; 1932 (37) 1262; 1934 (38) 1222, 1427; 1935 (39) 171; 1940 (41) 1748; 1955 (49) 155.

Library References

Counties 65.

Westlaw Topic No. 104.

C.J.S. Counties Sections 161 to 163.

Attorney General’s Opinions

Discussion of the duties of the offices of county treasurer and county auditor upon change in the form of county government. S.C. Op.Atty.Gen. (June 15, 2005) 2005 WL 1609287.

Sections 4‑11‑20 and 1‑3‑220 should prevail over Sections 12‑45‑20 and 1‑3‑210 with respect to filling vacancy in office of county treasurer elected pursuant to Section 4‑9‑60. Gubernatorial appointee (appointed to fill vacancy occasioned by death two weeks prior to commencement of term of office) would serve until successor is elected in general election in November 1994 and successor so elected would serve the remainder of term for which treasurer was elected in November 1992. 1993 Op Atty Gen, No 93‑20 (April 1, 1993) 1993 WL 720095.

Governor may appoint successor to complete unexpired term of office of county treasurer. 1984 Op Atty Gen, No 84‑7, p. 26 (January 24, 1984) 1984 WL 159816.

The Richland County Council may not proscribe by ordinance a date for the commencement of the treasurer’s and the county auditor’s terms of office, as these are controlled by Section 12‑45‑20 and Section 4‑11‑10. 1976‑77 Op Atty Gen, No 77‑345, p 276 (November 2, 1977) 1977 WL 24684.

How vacancy in office filled. A vacancy in the office of county treasurer is to be filled for the unexpired term by the Governor. 1968‑69 Op Atty Gen, No 2680, p 105 (May 29, 1969) 1969 WL 10680.

NOTES OF DECISIONS

In general 1

1. In general

Absent a mandate by election or otherwise to do so, newly elected county treasurer could not “qualify” for the office prior to the date on which the term to which he was elected commenced, and thus, he was not entitled to assume the office of treasurer prior to that date, even though he took oath of office, posted required bond, and received a pro forma commission from governor, where county did not conduct the election to fill the unexpired term to which the current treasurer had been appointed. Florence County v. Moore (S.C. 2001) 344 S.C. 596, 545 S.E.2d 507. Counties 65; Public Employment 145

**SECTION 12‑45‑30.** Suspension and removal from office.

 A county treasurer shall be subject to suspension and removal from office by the Governor upon the same grounds and in the same manner as prescribed in Section 12‑39‑30 in relation to county auditors, and all the provisions of said section are made applicable in cases of suspension and removal of county treasurers.

HISTORY: 1962 Code Section 65‑1958; 1952 Code Section 65‑1958; 1942 Code Section 2770; 1932 Code Section 2791; Civ. C. ‘22 Section 492; Civ. C. ‘12 Section 441; Civ. C. ‘02 Section 393; G. S. 222; R. S. 318; 1897 (22) 207.

Library References

Counties 67.

Westlaw Topic No. 104.

C.J.S. Counties Sections 168 to 173.

NOTES OF DECISIONS

In general 1

1. In general

Public officers have no contract or property rights in their offices, and, except as provided by the Constitution, they are subject to legislative control, and the Legislature may, subject to the Constitution, fix the term of office, provide for removal, abolish the office, or reduce the term. State v. Rhame (S.C. 1912) 92 S.C. 455, 75 S.E. 881, Am.Ann.Cas. 1914B,519. Constitutional Law 2644

**SECTION 12‑45‑35.** Deputy treasurer.

 (A) A county treasurer may appoint an employee in his office to be his deputy. The appointment must be filed with the State Treasurer and the governing body of that county. When the appointment is filed, the deputy may act for and on behalf of the county treasurer when the treasurer is incapacitated by reason of a physical or mental disability or during a temporary absence.

 (B) If there is a vacancy in the office of county treasurer by reason of death, resignation, or disqualification, the appointed deputy shall carry out the duties of the office until a successor is appointed or elected and qualified.

HISTORY: 2001 Act No. 89, Section 62A, eff July 20, 2001; 2006 Act No. 386, Section 55.S, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 33, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 33, in (A), substituted “filed with the State Treasurer” for “filed with the department”.

Library References

Counties 62.

Westlaw Topic No. 104.

C.J.S. Counties Sections 164 to 167.

Attorney General’s Opinions

An individual who serves both as deputy sheriff and as a deputy treasurer would most probably contravene the dual office holding provisions of the State Constitution. S.C. Op.Atty.Gen. (July 30, 2007) 2007 WL 2459762.

**SECTION 12‑45‑40.** Publication of notice of certain tax rates.

 Immediately upon the receipt of the tax duplicate for the year from the county auditor, the county treasurer shall cause a notice to be inserted in one newspaper in his county stating the rate per cent of the levy for State purposes and the rate per cent for all other purposes on the duplicates for the current fiscal year and, if any special levies have been made on the property of the school or other district not affecting an entire county, the total rate of levies shall also be stated in such notice.

HISTORY: 1962 Code Section 65‑1962; 1952 Code Section 65‑1962; 1942 Code Section 2774; 1932 Code Section 2795; Civ. C. ‘22 Section 496; Civ. C. ‘12 Section 445; Civ. C. ‘02 Section 398; G. S. 266; R. S. 324; 1881 (17) 1023; 1909 (26) 74; 1929 (36) 141.

CROSS REFERENCES

Authority for municipalities to provide by ordinance procedure for collection of delinquent real and personal property taxes, see Section 5‑7‑300.

Library References

Taxation 2428.

Westlaw Topic No. 371.

C.J.S. Taxation Section 482.

Attorney General’s Opinions

1962 Code Section 65‑1962 [1976 Code Section 12‑45‑40] provides the form and manner for notice of property taxes due and no reference is made to notices being mailed the property owner or to the political entity that is to absorb the costs of such notices. 1975‑76 Op Atty Gen, No 4486, p 345 (October 11, 1976) 1976 WL 23103.

**SECTION 12‑45‑60.** Only taxes on duplicates or ordered by auditor shall be collected.

 County treasurers are prohibited from collecting any tax except such as has been first entered upon the tax duplicates of their respective counties or upon the order of the auditors of such counties.

HISTORY: 1962 Code Section 65‑1964; 1952 Code Section 65‑1964; 1942 Code Section 2774; 1932 Code Section 2795; Civ. C. ‘22 Section 496; Civ. C. ‘12 Section 445; Civ. C. ‘02 Section 398; G. S. 266; R. S. 324; 1881 (17) 1023; 1909 (26) 74; 1929 (36) 141.

Library References

Taxation 2601, 2807.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 676, 1130, 1824.

Attorney General’s Opinions

A county auditor may present the tax roll duplicate to the country treasurer in electronic form; delivery is completed by making an electronic tax roll in the accounts receivable portion available to the treasurer, and the treasurer may use the electronic tax roll, if it is the auditor’s delivery of the county duplicate and if used to populate the tax bill, to collect the taxes due as his warrant for the collection of the taxes. S.C. Op.Atty.Gen. (September 23, 2016) 2016 WL 5820154.

**SECTION 12‑45‑70.** Time for paying taxes; manner of collection; receipts for payment; delegation of collection of taxes.

 (A) All taxes are due and payable between the thirtieth day of September and the fifteenth day of January after their assessment in each year. The county treasurer, acting under the direction and supervision of the department, shall collect the taxes in the manner prescribed by law and give receipts for them to the persons paying them. In the receipts and tax notices the real estate paid on must be briefly described including tax map number and an identifiable description. The value and a description of the personal property paid on must be stated, together with the time the taxes are paid, the amount paid, and the township in which the property is located.

 (B) The treasurer, tax collector, or other official charged with the collection of ad valorem property taxes in a county may delegate the collection of the property taxes to a bank or a banking institution, if the institution assigns, hypothecates, or pledges to the county, as security for the collection, federal funds or federal, state, or municipal securities in an amount adequate to prevent any loss to the county from any cause. The institution must remit the taxes collected daily to the county official charged with the collections. The receipt given to the taxpayer, in addition to the information required in this section and by Section 12‑37‑2650, must contain the name and office of the treasurer or tax collector of the county and the name of the banking institution to which payment was made.

 (C) The county official charged with the collection of taxes shall send a list of the institutions collecting the taxes to the Department of Motor Vehicles. Each institution shall certify to the Department of Motor Vehicles that the taxes have been paid, and the Department of Motor Vehicles may accept certification instead of the tax receipt given to the taxpayer if that certification contains the information required in Section 12‑37‑2650.

HISTORY: 1962 Code Section 65‑1965; 1952 Code Section 65‑1965; 1942 Code Section 2774; 1932 Code Section 2795; Civ. C. ‘22 Section 496; Civ. C. ‘12 Section 445; Civ. C. ‘02 Section 398; G. S. 266; R. S. 324; 1881 (17) 1023; 1909 (26) 74; 1929 (36) 141; 1983 Act No. 23 Section 2; 1985 Act No. 166, Section 2; 1993 Act No. 181, Section 225; 1996 Act No. 459, Section 18; 2006 Act No. 386, Section 55.T, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 34, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 34, in (C), three times substituted “Department of Motor Vehicles” for “Department of Public Safety”.

CROSS REFERENCES

Taxpayer immunity from Year 2000 related computer billing delays or errors, see Section 12‑2‑85.

Library References

Taxation 2760, 2804.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1023, 1124, 1824.

Attorney General’s Opinions

County cannot lawfully provide for payment of real property taxes in installments that begin in July, since such provision would conflict with general law of State. 1985 Op Atty Gen, No. 85‑51, p 154 (May 14, 1985) 1985 WL 166021.

NOTES OF DECISIONS

Sale of property 1

1. Sale of property

The sale of property of a defaulting taxpayer is governed strictly by statute. F.C. Enterprises, Inc. v. Dibble (S.C.App. 1999) 335 S.C. 260, 516 S.E.2d 459, rehearing denied, certiorari denied. Taxation 2900

Tax sale purchaser’s interest in property was subject to previously recorded lease and purchase option, even though lien for subject taxes attached by law to property eight months prior to execution of lease and option; there was no tax delinquency when lease and option were executed and no tax sale had yet occurred, and thus, purchaser secured same rights and title in property that lessor owned at time of sale. F.C. Enterprises, Inc. v. Dibble (S.C.App. 1999) 335 S.C. 260, 516 S.E.2d 459, rehearing denied, certiorari denied. Taxation 3065

**SECTION 12‑45‑75.** Installment payments of property tax.

 (A)(1) The governing body of a county may by ordinance allow each taxpayer owning a parcel of taxable real property within the county the option to pay property taxes in installments as provided in this section. An installment election is not allowed for taxes paid through an escrow account.

 (2) A taxpayer electing to pay ad valorem taxes in installments or electing to opt out of paying in installments, must notify the county treasurer in writing no later than January fifteenth of the tax year for which the installment payments are applicable, and no earlier than December first of the preceding tax year. If the treasurer does not receive written notification from December first to January fifteenth, the taxpayer must pay ad valorem taxes in the same manner as the previous taxable year.

 (3) The treasurer must notify the county auditor and county assessor of each taxpayer electing the installment payment option or electing to opt out of paying in installments. If the county assessor determines the property has diminished in value, an estimated property tax obligation must be adjusted to reflect the reduced value. Upon being notified of an adjustment for reduced value from the assessor, the county treasurer must notify the property owner of the adjusted estimated property tax obligation.

 (B) An installment payment is based on the total property tax due for the previous property tax year, after applying all applicable credits and adjustments reflecting reduced value as determined by the county assessor. An amount equal to sixteen and two‑thirds percent of the estimated property tax obligation must be paid to the county treasurer in each of five installments according to the following schedule:

 In the case of the following estimates, the due date is on or before:

|  |  |  |
| --- | --- | --- |
|  |  |  |
|   | First | February 15 |
|   | Second | April 15 |
|   | Third | June 15 |
|   | Fourth | August 15 |
|   | Fifth | October 15 |

 The remaining balance is due on or before January fifteenth of the following taxable year in accordance with Section 12‑45‑70. The treasurer must notify the county auditor of the amount of a property owner’s payments received no earlier than October fifteenth and no later than November fifteenth. A notice of the remaining tax due and other authorized charges and information must then be prepared and mailed to the property owner.

 (C) If a taxpayer electing to pay in installments does not timely make each payment pursuant to the schedule in subsection (B), the county may refuse to accept all other installment payments. If the county refuses to accept other installment payments, the remaining balance is due in accordance with Section 12‑45‑70.

 (D) Estimated property taxes paid in installments during a property tax year are a credit against the total property tax due on the real property for the property tax year. The estimated property taxes paid in installments during a property tax year must be deposited by the county treasurer in an interest bearing account. The interest is to be retained by the treasurer to offset the administrative expenses of installment payments. Once final payment is made, and no later than January fifteenth of the following taxable year, the installment payments must be credited to the accounts of property taxing entities in the county in the same proportion that millage was imposed by such entities in the previous tax year with the necessary adjustments made to reflect current tax year millage impositions when property taxes for the current year are paid.

 (E) If the credit allowed for estimated property tax paid during the property tax year results in an overpayment of property tax, the overpayment must be refunded to the taxpayer together with the actual interest earned by the county treasurer, running from the later of the due date of the installment resulting in the overpayment, without regard to additional amounts paid, or the actual date the overpayment was received by the county treasurer, to the date the refund is issued. Except that if the overpayment is issued to the taxpayer within forty‑five days of the installment payment that resulted in the overpayment, the treasurer may retain the interest earned.

 (F) Every tax notice for real property, for which the installment payment option has been elected, must contain a calculation of any estimated property tax due and a payment schedule and return envelopes for these payments.

 (G) The payment of estimated property tax as provided in this section and the credit allowed arising from these payments in no way alters the due date, penalty schedule, and enforced collection of property taxes as provided by law.

HISTORY: 1994 Act No. 443, Section 1; 1995 Act No. 145, Part II, Section 119D; 2005 Act No. 136, Section 1, eff June 7, 2005; 2006 Act No. 388, Pt V, Section 3.A, eff June 10, 2006.

Editor’s Note

2006 Act No. 388, Pt V Section 3.B, provides as follows:

“Each county treasurer shall report to the General Assembly on the impact and implementation of the provisions of this section no later than sixty days after January 15, 2009. The report shall include, but is not limited to, the costs incurred, the interest retained, and the number of individuals electing to pay ad valorem taxes in installments.”

Library References

Taxation 2761.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 995, 1019, 1022, 1027 to 1034.

Attorney General’s Opinions

Discussion of whether the governing body of a county may by ordinance allow a taxpayer to elect to pay ad valorem taxes on real property located in a county in monthly installments rather than quarterly installments. S.C. Op.Atty.Gen. (April 20, 2004) 2004 WL 885190.

Discussion of installment due date, extension of due date, single or multiple service charges, distribution of service charges, earliest date for installment payment, and equal protection and uniformity. S.C. Op.Atty.Gen. (Feb. 14, 1995) 1995 WL 117041.

**SECTION 12‑45‑78.** Refund of overpayments.

 If a homestead exemption is granted pursuant to Section 12‑37‑250 or a residential classification is made pursuant to Section 12‑43‑220(c) after payment of the property tax for that year, a resulting overpayment must be refunded to the owner of record at the time the exemption is granted or the classification is made.

HISTORY: 2000 Act No. 399, Section 3(X)(1), eff January 1, 2001.

Library References

Taxation 2317, 2773.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292, 1049 to 1054, 1059, 1822.

**SECTION 12‑45‑80.** County treasurer may attend at convenient places to collect tax.

 The county treasurers of the respective counties may attend at certain safe and convenient places for the purpose of collecting taxes. They shall give twenty days’ public notice of the days when they will be at the places designated.

HISTORY: 1962 Code Section 65‑1978; 1952 Code Section 65‑1978; 1942 Code Section 2773; 1932 Code Section 2794; Civ. C. ‘22 Section 495; Civ. C. ‘12 Section 444; Civ. C. ‘02 Section 397; 1896 (22) 61; 1905 (24) 833; 1906 (25) 44; 1912 (27) 539; 1935 (39) 102.

**SECTION 12‑45‑90.** Media of payment.

 Taxes are payable in the following kinds of funds and no other: silver coin, United States currency, United States postal money orders, and checks subject to collection. A third‑party administrator may be used for the collection of taxes through electronic media if there is no cost borne by the county. Other media of payment may be accepted as payment for taxes upon approval of the governing body, and if costs are incurred by the county in the acceptance of a payment media, approval of the county governing body must be obtained. Electronic or other media of payment are subject to collection, and in the absence of an agreement among the taxing entities to share the costs of collection of property taxes, costs must be apportioned among the taxing entities on a pro rata basis. The county governing body may impose a uniform surcharge as a condition of acceptance of a particular medium of payment, not to exceed the cost of accepting charge cards, debit cards, or electronic forms of payment including discount or merchant fees.

HISTORY: 1962 Code Section 65‑1980; 1952 Code Section 65‑1980; 1942 Code Sections 2774, 2808; 1932 Code Sections 2795, 2846; Civ. C. ‘22 Sections 496, 512; Civ. C. ‘12 Sections 445, 461; Civ. C. ‘02 Sections 398, 413; G. S. 266, 268; R. S. 324, 340; 1881 (17) 988, 1023; 1909 (26) 74; 1929 (36) 141; 1937 (40) 138; 1958 (50) 1917; 2001 Act No. 24, Section 1, eff May 29, 2001; 2015 Act No. 87 (S.379), Section 35, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 35, deleted the former last sentence, relating to certain forms of tax payments.

Library References

Taxation 2761.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 995, 1019, 1022, 1027 to 1034.

NOTES OF DECISIONS

Construction and application 1

Payment 2

1. Construction and application

This section [Code 1962 Section 65‑1980] is mandatory. State v Brown, 187 SC 223, 196 SE 889 (1938). American Surety Co. v Mills, 191 SC 362, 4 SE2d 308 (1939).

2. Payment

A public officer charged by law with the collection of taxes cannot accept anything but one of the mediums of payment prescribed by this section [Code 1962 Section 65‑1980] in payment thereof, and all persons are held to have notice of the extent of the public officer’s powers, and hence deal with him at their peril as to matters not within the scope of his authority. American Sur. Co. v. Hamrick Mills (S.C. 1939) 191 S.C. 362, 4 S.E.2d 308, 124 A.L.R. 1147.

Where taxpayers gave check in payment of taxes and received from treasurer a receipt purporting to be a full discharge of all taxpayers’ tax and penalty obligations for year, surety of county treasurer which paid tax penalties accruing because of treasurer’s failure to promptly deposit checks was not estopped from collecting penalties from taxpayers, since taxpayers at time of receiving receipt were chargeable with knowledge that taxes were not in fact paid until payment had been received on check. American Sur. Co. v. Hamrick Mills (S.C. 1939) 191 S.C. 362, 4 S.E.2d 308, 124 A.L.R. 1147.

**SECTION 12‑45‑115.** Institution of collection proceedings when check for payment of taxes or fees is returned unpaid.

 If an uncertified check is accepted by a county treasurer as payment for taxes or fees and the check is returned to the county treasurer unpaid for any cause, the county treasurer may institute proceedings pursuant to Section 34‑11‑70 to collect on the check, including all applicable service charges or fees.

HISTORY: 1997 Act No. 155, Part II, Section 67A.

Library References

Taxation 2771.

Westlaw Topic No. 371.

C.J.S. Taxation Section 992.

**SECTION 12‑45‑120.** Procedure in case of delinquent personal tax where taxpayer resides or has property in another county.

 If, after the return of any personal tax by any county treasurer as delinquent, the county treasurer shall know or be informed that the person against whom it is charged resides in some other county in this State or has property or debts due him therein, he shall make out and forward to the treasurer of such other county a certified statement of the name of the person against whom such taxes are charged, the value of the property on which such taxes were levied, the amount of the taxes and penalties assessed thereon and that they are delinquent, and to the aggregate of such taxes and penalties he shall add twenty‑five percent as collection fees. Upon the receipt of such certificate the treasurer of such other county shall collect such delinquent taxes and penalties, with the twenty‑five percent collection fees as provided in this section, for which purpose he shall have all rights, powers and remedies conferred upon the treasurer of the county in which such taxes were assessed and be allowed the same fees for distraint and sale of property as if such taxes had been levied in his own county and, upon collection made, may retain one‑half of such twenty‑five percent collection fees, and shall transmit the balance collected by him to the treasurer of the county from whom he received such certified statement by mail. But if the treasurer to whom any such statement is sent cannot collect the amount therein named, or any part thereof, he shall return such duplicate, so endorsed, with reasons for such noncollection.

HISTORY: 1962 Code Section 65‑2002; 1952 Code Section 65‑2002; 1942 Code Section 2787; 1932 Code Section 2835; Civ. C. ‘22 Section 510; Civ. C. ‘12 Section 459; Civ. C. ‘02 Section 411; G. S. 282; R. S. 338; 1881 (17) 1030; 2015 Act No. 87 (S.379), Section 36, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 36, substituted “return of any personal tax” for “return of any chattel tax”, three times substituted “percent” for “per cent”, and substituted “one‑half” for “one half”.

Attorney General’s Opinions

Code 1962 Section 5‑2002 [Code 1976 Section 12‑45‑120] provides procedure to be used to collect taxes when taxpayers reside in another county or possess property or debts therein, personal property may be sold for delinquent taxes after advertising the same for fifteen days. 1974‑75 Op Atty Gen, No 4057, p 133 (July 25, 1975) 1975 WL 22354.

**SECTION 12‑45‑140.** Apportionment of taxes and costs in case of transfer subsequent to assessment.

 When the title or an interest in real or personal property, or any part thereof, shall have become transferred to or vested in any person not the owner at the time such property was assessed for taxation, the county auditor, upon the application at any time prior to sale under tax execution of the person acquiring such title or interest subsequent to assessment, shall apportion the share of taxes and costs due by the original owner upon that portion of or interest in the property acquired subsequent to assessment by the person so applying, and thereupon the county treasurer, county sheriff, county tax collector, town or city tax collector or any officer charged with the collection of taxes shall accept from the person so applying the proportionate share of taxes and costs upon such part of or interest so acquired since assessment as estimated by the auditor and give receipt therefor, which shall discharge such portion or interest from the taxes and costs so assessed.

HISTORY: 1962 Code Section 65‑2004; 1952 Code Section 65‑2004; 1942 Code Section 2775; 1932 Code Section 2798; Civ. C. ‘22 Section 497; Civ. C. ‘12 Section 446; Civ. C. ‘02 Section 399; G. S. 267; R. S. 325; 1881 (17) 1024; 1925 (34) 21; 1931 (37) 125.

Library References

Taxation 2187.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 103, 130 to 133, 135, 446.

Attorney General’s Opinions

Apportionment of taxes allowed by Section 12‑45‑140 applies to roll back taxes resulting from change in use of property from agricultural to nonagricultural. 1993 Op Atty Gen No. 93‑13 (March 8, 1993) 1993 WL 720080.

**SECTION 12‑45‑150.** Apportionment, prior to sale under tax execution, in case of mortgaged property.

 Upon application at any time prior to sale under tax execution of any person holding a mortgage upon any real or personal property which is assessed for taxation the county auditor shall apportion the share of taxes and costs due by the owner thereof upon that portion of or interest in the property mortgaged, and thereupon the county treasurer, county sheriff, county tax collector, town or city tax collector or any officer charged with the collection of taxes shall receive from the mortgagee the proportionate share of the taxes and costs upon such portion or interest mortgaged as estimated by the county auditor and give receipt therefor, which shall discharge such portion or interest mortgaged from all taxes and costs assessed against the owner.

HISTORY: 1962 Code Section 65‑2005; 1952 Code Section 65‑2005; 1942 Code Section 2775; 1932 Code Section 2798; Civ. C. ‘22 Section 497; Civ. C. ‘12 Section 446; Civ. C. ‘02 Section 399; G. S. 267; R. S. 325; 1881 (17) 1024; 1925 (34) 21; 1931 (37) 125.

Library References

Taxation 2189.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 103, 130, 136, 446.

**SECTION 12‑45‑160.** Procedure in apportionment cases.

 The rights granted by Sections 12‑45‑140 and 12‑45‑150 shall exist after property has been advertised for sale under tax execution if the applicant shall also pay the prorata cost of the advertisement and in any such case the sale shall continue as to the remaining property. When the segregation and payment of taxes as segregated are made after the tax has gone into execution and before advertisement, the officer charged with the enforcement of the execution shall return it to the treasurer or officer issuing it and thereupon the treasurer or other officer shall receive the old execution and give credit for the entire amount of the taxes represented thereby and shall issue a new execution against the property specified in the old execution upon which the tax has not been paid and charge the sheriff or other officer charged with the enforcement thereof with the amount of the new execution, which shall be the unpaid portion of the old execution, and no additional costs shall be allowed by reason of the issuance of the new execution.

HISTORY: 1962 Code Section 65‑2006; 1952 Code Section 65‑2006; 1942 Code Section 2775; 1932 Code Section 2798; Civ. C. ‘22 Section 497; Civ. C. ‘12 Section 446; Civ. C. ‘02 Section 399; G. S. 267; R. S. 325; 1881 (17) 1024; 1925 (34) 21; 1931 (37) 125.

**SECTION 12‑45‑170.** Apportionment applies to municipal taxes.

 Whenever any property shall be discharged in the manner provided in Sections 12‑45‑140 or 12‑45‑150 from taxes assessed against it, it shall likewise, upon payment of a like proportionate share of any taxes assessed by any city or town, be discharged from all municipal taxes assessed against it.

HISTORY: 1962 Code Section 65‑2007; 1952 Code Section 65‑2007; 1942 Code Section 2775; 1932 Code Section 2798; Civ. C. ‘22 Section 497; Civ. C. ‘12 Section 446; Civ. C. ‘02 Section 399; G. S. 267; R. S. 325; 1881 (17) 1024; 1925 (34) 21; 1931 (37) 125.

CROSS REFERENCES

Municipal taxation, generally, see Section 5‑21‑110 et seq.

**SECTION 12‑45‑180.** Penalties on delinquent taxes; collection; execution.

 (A) When the taxes and assessments or any portion of the taxes and assessments charged against any property or person on the duplicate for the current fiscal year are not paid before the sixteenth day of January or thirty days after the mailing of tax notices, whichever occurs later, the county auditor shall add a penalty of three percent on the county duplicate and the county treasurer shall collect the penalty. If the taxes, assessments, and penalty are not paid before the second day of the next February, an additional penalty of seven percent must be added by the county auditor on the county duplicate and collected by the county treasurer. If the taxes, assessments, and penalties are not paid before the seventeenth day of the next March, an additional penalty of five percent must be added by the county auditor on the county duplicate and collected by the county treasurer. If the taxes, assessments, and penalties are not paid before the seventeenth day of March, the county treasurer shall issue his tax execution to the officer authorized and directed to collect delinquent taxes, assessments, penalties, and costs for their collection as provided in Chapter 51 of this title and they must be collected as required by that chapter. The United States postmark is the determining date for mailed payments. If the county treasurer or the office authorized and directed to collect delinquent taxes determines by proper evidence that the mailing of a tax payment was improperly postmarked, and this error results in the imposition of a penalty provided in this subsection, then the penalty imposed may be waived by the county treasurer or the office authorized and directed to collect delinquent taxes.

 (B) If title to real property is transferred during a tax year and the records of the county indicate that the tax notice was mailed or otherwise forwarded to the prior owner and the current owner received no timely notice of the tax due on the property, the treasurer shall waive any penalties imposed pursuant to subsection (A) of this section.

HISTORY: 1962 Code Section 65‑2008; 1952 Code Section 65‑2008; 1942 Code Section 2782; 1932 Code Section 2830; Civ. C. ‘22 Section 505; Civ. C. ‘12 Section 454; Civ. C. ‘02 Section 406; G. S. 276; R. S. 333; 1881 (17) 1027; 1887 (19) 862; 1902 (23) 972; 1909 (26) 76; 1936 (39) 1389; 1938 (40) 1872; 1953 (48) 23; 1959 (51) 553; 1985 Act No. 166, Section 3; 1990 Act No. 335, Section 1; 1993 Act No. 9, Section 1; 1995 Act No. 60, Section 4E; 1997 Act No. 106, Section 7; 2015 Act No. 87 (S.379), Section 37, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 37, in (A), inserted “or the office authorized and directed to collect delinquent taxes” and “or the office authorized and directed to collect delinquent taxes” in the last sentence.

CROSS REFERENCES

Additional tax penalty in certain counties on improvements not taxed for lack of building permit, see Section 4‑25‑260.

Inducement agreement between county and investor in qualified project for payment of fee in lieu of taxes, see Section 4‑29‑67.

Library References

Taxation 3216, 3221.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1728 to 1737, 1747 to 1749.

Attorney General’s Opinions

Discussion of apportionment and waiver of penalties by county council. S.C. Op.Atty.Gen. (September 28, 2015) 2015 WL 5896031.

Discussion of whether Oconee County may continue to utilize late lax penalties collected by the county on ad valorem taxes. S.C. Op.Atty.Gen. (July 3, 2014) 2014 WL 3414950.

A county treasurer may not use penalties collected pursuant to sections 12‑45‑180 or 12‑51‑40 to offset collection costs. S.C. Op.Atty.Gen. (November 9, 2012) 2012 WL 5883797.

Any fees imposed by a county treasurer in addition to the penalties and costs expressly permitted in Section 12‑45‑180(A) or Section 12‑51‑40, as the case may be, are invalid on the basis they are not authorized by statute. S.C. Op.Atty.Gen. (November 9, 2012) 2012 WL 5883797.

Opinion concerning the manner in which the proceeds of a sale by the Lancaster County Forfeited Land Commission should be distributed when such proceeds are insufficient to pay all “unpaid property taxes, penalties, assessments…and costs including taxes levied for the year in which the redemption period begins.” Op.Atty.Gen. (September 19, 2012) 2012 WL 4711424.

Where the county mails a tax notice to an address which the county believes will provide notice to the property owner of the amount of taxes owed on such property, any late payment of the taxes on such property will be subject to penalty under S.C. Code Ann. Section 12‑45‑180 where the person authorized to send the notice exercised diligence to ascertain the correct address of the property owner or used an address consistent with the intentions of the property owner. 1994 Op Atty Gen, No 94‑23, p 58 (April 5, 1994) 1994 WL 199696.

A county must first attempt to collect delinquent property taxes pursuant to S.C. Code Ann. Section 12‑51‑40, et seq., before proceeding under the provisions of the Setoff Debt Collection Act. 1994 Op Atty Gen, No 94‑13, p. 32 (February 1, 1994) 1994 WL 84319.

McCormick County Ordinance 92‑17 does not conflict with delinquent tax collection provisions of Title 12, SC Code of Laws. (Decided under former law.) 1993 Op Atty Gen, No 93‑30 (May 10, 1993) 1993 WL 720118.

McCormick County Treasurer does not have authority to bring action in Magistrate Court to enforce collection of unpaid solid waste service fees. (Decided under former law.) 1993 Op Atty Gen, No 93‑30 (May 10, 1993) 1993 WL 720118.

Officer charged with tax collection duty incurs collection expenses. That duty is not given to anyone else, and it is that individual who establishes, within confines of collection statutes, nature and amount of expenses required to effectuate duties of levy, seizure, and sale. Such individual is not free to add expenses based on arbitrary reasons or arbitrary amounts for costs. Rather, individual must be able to substantiate expenses which are being added as costs. 1993 Op Atty Gen, No 93‑28 (May 4, 1993) 1993 WL 720117.

Governing body of county is without authority to extend date that penalties are imposed by Section 12‑45‑180 for late payment of property taxes. 1990 Op Atty Gen, No 90‑17 (February 5, 1990) 1990 WL 482405.

County governing body is without authority to abate or waive penalty; penalty that has been incorrectly levied may be abated by county auditor prior to payment under Section 12‑39‑250, or may be abated or refunded by county auditor, treasurer and assessor under Section 12‑47‑70 through 12‑47‑90. 1990 Op Atty Gen, No 90‑6 (January 15, 1990) 1990 WL 482394.

Both taxes due upon an assessment under Section 12‑43‑305 and penalties for late payment of such taxes may be collected by execution and sale as provided in Chapter 51 of Title 12. 1989 Op Atty Gen, No 89‑32, p 88 (March 14, 1989) 1989 WL 406122.

The penalties provided by Section 12‑45‑180 are not to be applied to the late payment of assessments issued under authority of Section 58‑3‑100. 1987 Op Atty Gen, No 87‑13, p 51 (February 3, 1987) 1987 WL 245422.

Penalty is due for late payment of roll‑back taxes under Section 12‑45‑180 or Section 12‑51‑130. 1985 Op Atty Gen, No 85‑50, p 153 (May 9, 1985) 1985 WL 166020.

Only so much of a defaulting taxpayer’s property as is sufficient to satisfy the tax is to be levied upon and sold under execution. (Decided under former law.) 1979 Op Atty Gen, No 79‑55, p 73 (March 16, 1979) 1979 WL 29061.

Under the provisions of Section 12‑39‑220, no penalty is to be added to property duly returned for taxation and not listed on the duplicate; however, a penalty is to be added when not returned and not listed. 1978 Op Atty Gen, No 78‑76, p 106 (May 2, 1978) 1978 WL 22557.

The Cherokee County Treasurer does not have the authority to collect delinquent taxes within the County, as statute delegates this to a clerk appointed by the County legislative delegation. 1976‑77 Op Atty Gen, No 77‑83, p 76 (March 21, 1977) 1977 WL 24425.

Execution may be had upon a single parcel of property for unpaid taxes and the proceeds from the sale of such property may be applied to the payment of the taxes upon the parcel sold as well as the unpaid taxes upon other property of the defaulting taxpayer. Should there be creditors secured by the parcel sold, they would have to be satisfied before the proceeds could be applied to the unpaid taxes on the other parcels. (Decided under former law.) 1975‑76 Op Atty Gen, No 4551, p 422 (December 22, 1976) 1976 WL 23167.

When a taxpayer has fully complied with the law relating to the return of property for ad valorem taxes and the tax assessments are not completed prior to the date that the 1% penalty is imposed, the penalty is improper; no penalties should be imposed until the taxpayer has had an opportunity to make a payment. 1974‑75 Op Atty Gen, No 3970, p 41 (February 13, 1975) 1975 WL 22268.

NOTES OF DECISIONS

Constitutional issues 1

Execution 2

Sale of property 3

1. Constitutional issues

The penalty under this section [Code 1962 Section 65‑2008] is not unconstitutional. Ex parte Lynch (S.C. 1881) 16 S.C. 32.

2. Execution

Under Civ.Code 1912, S 454 (See Code 1942, S 2782), fixing the time for payment of taxes, and sections 476, 1196, and 1198 (See Code 1942, SS 2829, 3546, 3548), regulating the issuance of tax executions by the treasurer to the sheriff for collection, the sheriff is not responsible for taxes collected by the county auditor, who forged his name to receipts, where the collections were made before the time fixed for issuance of tax executions; for though the sheriff authorized the auditor to assist him, he could not authorize collection of taxes, before the time fixed for issuance of tax executions to himself. Dillon County v. Lane (S.C. 1920) 114 S.C. 494, 104 S.E. 184. Public Employment 916; Sheriffs And Constables 122

Execution need not specify amount of taxes due each fund. Dickson v. Burckmyer (S.C. 1903) 67 S.C. 526, 46 S.E. 343. Taxation 2939

3. Sale of property

The sale of property of a defaulting taxpayer is governed strictly by statute. F.C. Enterprises, Inc. v. Dibble (S.C.App. 1999) 335 S.C. 260, 516 S.E.2d 459, rehearing denied, certiorari denied. Taxation 2900

Tax sale purchaser’s interest in property was subject to previously recorded lease and purchase option, even though lien for subject taxes attached by law to property eight months prior to execution of lease and option; there was no tax delinquency when lease and option were executed and no tax sale had yet occurred, and thus, purchaser secured same rights and title in property that lessor owned at time of sale. F.C. Enterprises, Inc. v. Dibble (S.C.App. 1999) 335 S.C. 260, 516 S.E.2d 459, rehearing denied, certiorari denied. Taxation 3065

**SECTION 12‑45‑185.** Waiver of penalties.

 Notwithstanding the provisions of Section 12‑45‑180, the county treasurer may waive the penalties imposed pursuant to that section and notify the county auditor if necessary if the taxpayer provides clear and convincing evidence to the county treasurer that the taxpayer delivered the timely payment to the United States mail or that the taxpayer otherwise timely delivered or caused to be delivered the payment. The request for waiver must be in the form of an application in writing to the county treasurer that includes documentation sufficient for the treasurer to conclude that the taxpayer made timely payment of the taxes. Waiving penalties is within the sole discretion of the county treasurer and the treasurer’s denial of a waiver is not subject to appeal.

HISTORY: 2005 Act No. 145, Section 58.A, eff June 7, 2005, and by 2005 Act No. 161, Section 42.A, eff June 9, 2005; 2015 Act No. 87 (S.379), Section 38, eff June 11, 2015.

Editor’s Note

2005 Act No. 145, Section 58.B, provides as follows:

“This section takes effect upon approval by the Governor and applies for property taxes due for tax years beginning after 2004.”

2005 Act No. 161, Section 42.B, provides as follows:

“This SECTION takes effect upon approval by the Governor and applies for property taxes due for tax years beginning after 2004.”

Effect of Amendment

2015 Act No. 87, Section 38, substituted “and notify the county auditor if necessary if” for “if”.

Library References

Taxation 3220.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1743 to 1746, 1756 to 1757.

**SECTION 12‑45‑220.** Investments by county treasurers.

 (A) A county treasurer may invest or reinvest any sum of money not necessary for current expenses in:

 (1) obligations of the United States and its agencies;

 (2) general obligations of this State or any of its political subdivisions;

 (3) savings and loan associations if their deposits are insured by an agency of the federal government;

 (4) certificates of deposit where the certificates are collaterally secured by securities of type described in items (1) and (2) of this subsection held by the third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but the collateral is not required to the extent the certificates of deposit are insured by an agency of the federal government; or

 (5) no load open‑end or closed‑end management type investment companies or investment trusts registered under the Investment Company Act of 1940, as amended, where the investment is made by a bank or trust company or savings and loan association or other financial institution when acting as trustee or agent for a bond or other debt issue of that county treasurer, if the particular portfolio of the investment company or investment trust in which the investment is (i) limited to obligations described in items (1) and (2) of this subsection, and (ii) have among its objectives the attempt to maintain a constant net asset value of one dollar a share and to that end, value its assets by the amortized cost method. The portfolio may also consist of repurchase agreements when collateralized by obligations described in items (1) and (2) of this subsection.

 (B) The governing body may delegate the investment authority provided above to the county treasurer who shall assume full responsibility for the investment transactions until the delegation of authority terminates or is revoked.

 (C) The State Treasurer may assist local governments in investing funds that are temporarily in excess of operating needs.

 (D) All interest and other earnings, when collected, must be added to the fund and paid out as other funds of the same sort are paid.

HISTORY: 1962 Code Section 65‑2014; 1952 Code Section 65‑2014; 1942 Code Section 2780; 1932 Code Section 2803; Civ. C. ‘22 Section 502; Civ. C. ‘12 Section 451; 1909 (26) 166; 1959 (51) 111; 1967 (55) 59, 493; 1990 Act No. 326, Section 2.

CROSS REFERENCES

Emergency procedures for county forfeited land commission, see Section 12‑59‑140.

Investments allowed for political subdivisions, see Section 6‑5‑10.

Provisions relating to the authority of the treasurer to make investments under Chapter 6, see Section 6‑6‑30.

Federal Aspects

Investment Company Act of 1940 is codified in 15 U.S.C.A. Sections 80a‑1 et seq.

Library References

Counties 154.5, 160.

Westlaw Topic No. 104.

C.J.S. Counties Sections 314 to 316.

Attorney General’s Opinions

County treasurer may invest funds not needed for current expenses in bond anticipation note of the county. 1991 Op Atty Gen, No 91‑18 p 63 (March 29, 1991) 1991 WL 474748.

A County Treasurer is not authorized by Section 6‑5‑10 or Section 12‑45‑220 to invest surplus funds in mutual funds. Such is the case whether or not the mutual fund has invested in government securities. 1987 Op Atty Gen, No 87‑35, p 97 (April 21, 1987) 1987 WL 245444.

A county treasurer may invest excess funds in a savings or building and loan association in an amount not to exceed $100,000. 1979 Op Atty Gen, No 79‑88, p 122 (July 2, 1979) 1979 WL 29093.

School funds of the Calhoun County School District must be deposited with the Office of the Treasurer for Calhoun County who may retain or invest said funds in accordance with Section 12‑45‑220, Code of Laws of South Carolina, 1976, but the school district is entitled to information concerning investment of such funds. 1978 Op Atty Gen, No 78‑163, p 193 (September 30, 1978) 1978 WL 22631.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

Act permitting county treasurer to credit interest from investment of school district funds in county sinking fund rather than school district account plainly violates constitutional prohibition on special laws, since South Carolina Code Section 12‑45‑220 applies. Charleston County School Dist. v. Thomas (S.C. 1981) 277 S.C. 145, 283 S.E.2d 441. Declaratory Judgment 124.1

Act No. 853 of 1958, authorizing the crediting of interest from the investment of school district funds to the Sinking Fund of Charleston County, violated the prohibition against special laws contained in Article III, Section 34, of the South Carolina Constitution, where there existed a general law, Section 12‑45‑220, which provided that any county treasurer may invest funds not necessary for current expenses in specified securities and investments and that “the interest, when collected, shall be added to the fund and paid out as other funds of the same sort are paid”; all interest accrued on the investment of the school district funds must be credited to the school district account. Charleston County School Dist. v. Thomas (S.C. 1981) 277 S.C. 145, 283 S.E.2d 441. Counties 155; Statutes 1680

**SECTION 12‑45‑260.** Monthly report to county supervisor.

 The county treasurer may monthly report to the chief administrative officer of the county the amount of funds received for and on account of the county and the character of the funds.

HISTORY: 1962 Code Section 65‑2018; 1952 Code Section 65‑2018; 1942 Code Sections 2778, 3863; 1932 Code Sections 2801, 3863; Civ. C. ‘22 Sections 500, 1104; Civ. C. ‘12 Sections 449, 983; Civ. C. ‘02 Sections 402, 798; G. S. 273; R. S. 328, 680; 1881 (17) 1027; 1893 (21) 489; 1912 (27) 695; 1918 (30) 696; 1924 (33) 973; 1958 (50) 1917; 1988 Act No. 365, Part II, Section 5; 2015 Act No. 87 (S.379), Section 39, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 39, substituted “may monthly” for “shall, on the fifteenth day of each month,”.

**SECTION 12‑45‑280.** Monthly report to county superintendent of education; books shall be open to public; violations.

 The county treasurer shall on the fifteenth day of each month report to the chief executive officer of each school district an itemized statement of the amount of receipts and disbursements, by school districts, made by him for the previous calendar month and the balance remaining in his hands to the credit of each school district from each fund. His books must at all times be open to public inspection at all reasonable hours. Any county treasurer failing or refusing to comply with these provisions is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars, to be used for general school purposes in the county.

HISTORY: 1962 Code Section 65‑2023; 1952 Code Section 65‑2023; 1942 Code Section 2780‑1; 1932 Code Section 1564; Cr. C. ‘22 Section 512; Cr. C. ‘12 Section 581; Cr. C. ‘02 Section 424; G. S. 1022; R. S. 337; 1878 (16) 584; 1924 (33) 1146; 1942 (42) 1429; 1988 Act No. 365, Part II, Section 6.

CROSS REFERENCES

Custody of certain career and technology training funds coming to the State from the United States, see Section 59‑53‑1830.

**SECTION 12‑45‑300.** Delinquent list; entry information; charge to treasurer.

 The auditor shall take from the duplicate previously provided to the treasurer for collection a list of all taxes, assessments, and penalties the treasurer has been unable to collect, describing the property as described on the duplicate. In making this list, the delinquencies in each taxing entity must be stated separately. After deducting the amount of taxes, assessments, and penalties returned delinquent, the treasurer shall stand charged with the remainder of the taxes, assessments, and penalties charged on the duplicate.

HISTORY: 1962 Code Section 65‑2027; 1952 Code Section 65‑2027; 1942 Code Section 2797; 1932 Code Section 2836; Civ. C. ‘22 Section 531; Civ. C. ‘12 Section 480; Civ. C. ‘02 Section 431; G. S. 249, 272; R. S. 362; 1881 (17) 1016, 1026; 1887 (19) 862; 1958 (50) 1917; 1998 Act No. 370, Section 4; 2015 Act No. 87 (S.379), Section 40, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 40, amended the section by deleting the requirement of notations on duplicate.

Library References

Taxation 2820.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1135.

Attorney General’s Opinions

Discussion of the situation where the Treasurer turns in an uncollectable tax or taxes ten years or older to the Auditor to remove from the receivable files. S.C. Op.Atty.Gen. (Aug. 17, 2004) 2004 WL 1879675.

NOTES OF DECISIONS

In general 1

Admissibility of evidence 2

1. In general

If a treasurer stands charged with taxes which should be paid by the taxpayer, he is amply protected by Code 1962 Section 65‑2034. State ex rel. Cherokee County v. Brown (S.C. 1938) 187 S.C. 223, 196 S.E. 889.

This section [Code 1962 Section 65‑2027] is mandatory. State ex rel. Cherokee County v. Brown (S.C. 1938) 187 S.C. 223, 196 S.E. 889.

2. Admissibility of evidence

Under former Civ.Code 1902, S 431 (See Code 1942, S 2797), in an action on the county treasurer’s bond, he having signed a receipt to the auditor for his tax duplicate reciting that he had compared the treasurer’s duplicate with the auditor’s duplicate, page by page, that the two books were properly added and proved, and that the tax and assessment were entered on both books, evidence of alleged errors, discrepancies, and mistakes therein was inadmissible. State v. Edwards (S.C. 1911) 89 S.C. 224, 71 S.E. 826.

**SECTION 12‑45‑390.** Procedure for levy, collection and distribution of property taxes in territory annexed by one county from another.

 When an area of a county is annexed to another county, property taxes shall be levied based upon the last assessment of property values and levied according to the millage of the annexing county and shall be prorated between the two counties for the taxable year.

 Any delinquent taxes on property in the area annexed shall be executed upon by the annexing county and the actual amount of the tax due and the amount of the penalties due at the time of annexation, upon collection, shall be paid to the county from which the area was annexed. All costs of execution and collection shall be deducted and retained by the annexing county.

 If the sale of property for payment of delinquent taxes is necessary, the sale shall be held in the annexing county in the same manner as all other such sales are held.

HISTORY: 1975 (59) 333.

Attorney General’s Opinions

The property in the area of Charleston County that was annexed to Colleton County in 1975 is to be assessed (valued) by Charleston County and taxed (levy of tax mills) by Colleton County and taxes then prorated between counties. 1974‑75 Op Atty Gen, No 4154, p 220 (October 9, 1975) 1975 WL 22449.

**SECTION 12‑45‑400.** Delegation of duty to seize property of defaulting taxpayer.

 When a county treasurer or tax collector is charged by law with the collection of delinquent taxes, the county treasurer or tax collector may delegate in writing to the deputy county treasurer, to the deputy tax collector, or to the county sheriff the duty and responsibility to seize and take possession of so much of the property of a defaulting taxpayer as may be necessary to secure payment of the taxes. Upon this written delegation the officer shall proceed to seize and take possession of the property. The treasurer or tax collector thereafter shall proceed to advertise and sell the property as provided by law.

HISTORY: 1986 Act No. 425, Section 2.

Library References

Taxation 2805.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1125 to 1126, 1824.

Attorney General’s Opinions

County council does not possess the authority to assign the duties of the Delinquent Tax Collector to the County Treasurer. S.C. Op.Atty.Gen. (April 15, 2005) 2005 WL 1024611.

**SECTION 12‑45‑410.** Application of payments by delinquent taxpayers.

 Any taxes paid by a delinquent taxpayer to a county treasurer or tax collector must be applied to the oldest chronological delinquency on the property for which payment was intended. Personal property taxes tendered must be applied to personal property tax delinquencies and real property taxes tendered must be applied to real property tax delinquencies.

HISTORY: 1986 Act No. 425, Section 3; 1987 Act No. 69, Section 1.

Library References

Taxation 2766.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 998, 1820.

Attorney General’s Opinions

Where property has been sold for delinquent taxes, and successful bidder has paid sufficient funds to satisfy taxpayer’s delinquency, taxes are no longer delinquent for tax year for which property was sold. Accordingly, taxpayer may pay subsequent tax liability on same property without county being required under Section 12‑45‑410 to apply tax payment to taxes for tax year for which property was sold. 1993 Op Atty Gen, No 93‑70 (October 20, 1993) 1993 WL 494576.

The County Treasurer or Tax Collector must apply tax payments for real property taxes to the oldest delinquency of real property taxes owed by the person for whom the payment is made. Payments of personal property taxes must likewise be applied to the oldest delinquency of personal property taxes. 1986 Op Atty Gen, No 86‑122, p 354 (December 15, 1986) 1986 WL 192081.

**SECTION 12‑45‑420.** Waiver, dismissal or reduction of penalty based on error by county.

 Notwithstanding another provision of law a committee composed of the county auditor, county treasurer, and county assessor may, by a majority vote, waive, dismiss, or reduce a penalty levied against real or personal property in the case of an error by the county.

HISTORY: 2000 Act No. 399, Section 3(W)(1), eff August 17, 2000; 2015 Act No. 87 (S.379), Section 41, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 41, inserted “, by a majority vote,”.

Library References

Taxation 3220.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1743 to 1746, 1756 to 1757.

**SECTION 12‑45‑430.** Issuance of tax receipt; conditions; acceptance of lesser amount.

 A county treasurer may not issue a tax receipt to a taxpayer unless the taxes, any applicable penalties and costs, and all other charges included on the tax bill have been paid in full. However, a county treasurer may accept a lesser amount than the original tax bill together with any applicable penalties, costs, and charges whenever a bankruptcy proceeding authorizes a lesser amount to be paid. The auditor, as authorized by county council, may prepare a tax bill to authorize negotiated taxes as a result of a bankruptcy.

HISTORY: 2005 Act No. 145, Section 46, eff June 7, 2005; 2006 Act No. 340, Section 1, eff June 10, 2006.