



ALAN WILSON  
ATTORNEY GENERAL

August 21, 2015

Mr. William B. Caldwell  
3781 Boston Theta Road  
Columbia, TN 38401

Dear Mr. Caldwell:

I am writing in response to your letter dated August 6, 2015, in which you question this Office's interpretation of how to compute the amount of time a defaulting taxpayer has to redeem property subsequent to a tax sale. S.C. Code Ann. § 12-51-90 (2014), the applicable provision to our analysis, provides, in pertinent part, as follows:

[t]he defaulting taxpayer, any grantee from the owner, or any mortgage or judgment creditor may *within twelve months from the date of the delinquent tax sale* redeem each item of real estate by paying to the person officially charged with the collection of delinquent taxes, assessments, penalties, and costs, together with interest as provided in subsection (B) of this section.

(emphasis added). Your letter specifically finds fault with an opinion dated December 17, 2004. See Op. S.C. Att'y Gen., 2004 WL 3058233 (Dec. 17, 2004). In that opinion, we concluded that the phrase "within twelve months from the date of the delinquent tax sale" required exclusion of the date of the tax sale and inclusion of the last date in the twelve month period. Thus, in regards to the taxpayer's property sold on October 6, 2003 that was the subject of that opinion, we opined that "the first day of the twelve month period - October 6, 2003 - would not be counted and the twelve month period would begin on October 7, 2003. Thus, at the very least, the property was redeemed on the last day available under the statutory period - October 7, 2004." Id. at \*2. Upon review of prior opinions of this Office, applicable case law, and the rules of statutory construction, it remains our opinion that the proper manner in which to compute a taxpayer's time for redemption pursuant to S.C. Code Ann. § 12-51-90 (2014) excludes the first day of the period and includes the last.

It is the policy of this office that we will not overrule a prior opinion unless it is clearly erroneous or unless there has been a change to the law applied. See, e.g., 2013 WL 6516330 (Nov. 25, 2013). While you mention our 2004 opinion, and the 1990 opinion on which it relies, opinions on this subject written by our Office date back as far as 1967. See Op. S.C. Att'y Gen., 2004 WL 3058233 (Dec. 17, 2004); Op. S.C. Att'y Gen., 1990 WL 599365 (Nov. 30, 1990); Op. S.C. Att'y Gen., 1967 WL 8619 (Aug. 25, 1967). Consistent with the conclusions reached in our 2004 and 1990 opinions, our 1967 opinion also provides that computation of a taxpayer's time to redeem property subsequent to a tax sale should be exclusive of the date of the sale and inclusive of the final date in the computation period. Op. S.C. Att'y Gen., 1967 WL 8619 (Aug. 25, 1967). In reaching this conclusion, we provided that:

[t]he general rule, in computing a period of time, that either the day on which the period begins or the day on which it expires must be included and the other excluded, and that it is improper to include or exclude both, applies in computing the redemption period and determining the time in which such period expires.

Id. (internal quotations omitted). Further, we cited former Section 10-2 of the South Carolina Code, providing that in South Carolina, “[t]he time within which an act is to be done shall be computed by excluding the first day and including the last. . . .” Id. at \*1. We also referenced authority stating that “where the statute provides that the owner shall have a certain length of time after the sale in which to redeem, this period *begins to run* from the day of the sale” but that “fractions of days are not recognized in the computation of time in this section.” Id. (citing 85 C.J.S. Taxation § 852 (emphasis added); Williams v. Halford, 64 S.C. 369, 42 S.E. 187 (1902)). Accordingly, we reached the conclusion that, for property sold at a tax sale on October 3, 1966, “October 4, 1967, [was] the last day in which the owner, any grantee from the owner or any mortgage or judgment creditor may redeem property sold at a tax sale. . . .” Id. Our 1967 reiterates the longstanding opinion of this Office that computation for redemption of property subsequent to a tax sale is computed by excluding the first day and including the last day of the computation period.

This calculation method has been widely adopted and applied when interpreting statutes necessitating a calculation of time within our State. An opinion of the South Carolina Supreme Court issued in 1875 and written by Chief Justice Moses, provided that:

Without citing the various cases which have induced the Courts to change the rule including the day of an act done, or an event happening, it may be enough to say, in the language of Mr. Justice Field, in delivering the opinion of the Supreme Court in *Sheets vs. Selden*, 2 Wallace, 190:

The general current of modern authorities on the interpretation of contracts, and also of statutes, where time is to be computed from a particular day or a particular event, where an act is to be performed within a specified period *from* or *after* a day named, is to exclude the day thus designated and to include the last day of the specified period.

The illustration of Chief Justice Kenyon in *Ex parte Fallon and wife* (5 T. R., 287,) shows that any other rule would defeat the intention and diminish the time allowed for the performance of the act. He says:

Suppose the direction of the Act had been to enroll the memorial within one day after the granting of the annuity. Could it be pretended that that meant the same as if it were said that it should be done on the same day on which the act was done? If not, neither can it be construed inclusively where a greater number of days is allowed.

So here, if the first day is to be included, the Senate or the House charged with the presentation of the Bill to the Governor might, in fact, restrict him to two days by not causing it to be delivered to him until the hour of midnight.

Corwin v. Comptroller General, 6 S.C. 390, 401 (1875); see also State v. Platt, 154 S.C. 1, 151 S.E. 206, 209 (1930) (stating, in 1930, that “Following the usual rule of computation, we would exclude the first day and include the last”).

This “usual rule of computation,” documented as far back as 1875, undoubtedly remains in effect today. See Rule 6(a), SCRCF (providing that “[i]n computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday”); see also Rule 3, SCRCRimP; Rules 3 and 52, SCRAAdminLawCt; Rule 263 SCACR (all providing the same rule); S.C. Code Ann. § 11-35-310 (providing, within the definition of “days” in the South Carolina Procurement Code, that “[i]n computing any period of time prescribed by this code or the ensuing regulations, or by any order of the Procurement Review Panel, the day of the event from which the designated period of time begins to run is not included. If the final day of the designated period falls on a Saturday, Sunday, or a legal holiday for the state or federal government, then the period shall run to the end of the next business day”).

In addition to the longstanding application of this computation method within our State, it is also our opinion that the rules of statutory construction specifically related to redemption statutes further promote the inclusion of the last day of the computation period in the calculation method. Since statutes governing redemption from tax sales are regarded as remedial in nature and equitable in character, they are construed liberally in favor of the redemptioner and the right to redeem. 85 C.J.S. Taxation § 1356 (2015). Liberal construction of redemption statutes is intended to accomplish statutory objectives, including affording property owners ample opportunity to redeem, and to foster a return of land to the tax rolls of the state. Id. Furthermore, redemption statutes must be given reasonable construction, taken into account the long established policy in the state on such matters. Id.

You have asked us to accept your interpretation of S.C. Code Ann. § 12-51-90 (2014), providing as follows under the factual scenario presented in our 2004 opinion:

I would certainly agree that the first day is excluded and if the purchase took place on October 6, 2003 then the first day of the statutory period pursuant to 12-51-90 began on October 7, 2003 and proceeded as follows:

1<sup>st</sup> Month      10/07/2003 \*BEGAN  
                    11/06/2003

2<sup>nd</sup> Month     11/07/2003  
                  12/06/2003

... [providing calculations in the same manner for months 3-11]

12<sup>th</sup> Month    09/07/2004  
                  10/06/2004 \*End – WITHIN 12 MONTHS PURSUANT TO 12-  
51-90.... up to, but not including, the corresponding numbered day  
of the next month.....

In light of the above analysis, we find your interpretation misplaced. We stand by the conclusions reached in the opinions of this Office from 1967, 1990, and 2004 that the final day of the computation period must be included in the calculation. This interpretation is supported by the rules of statutory construction and case law showing centuries of application of the computation of time in this manner as the usual rule of computation. As these opinions were based on sound reasoning and application of the aforementioned law, their conclusions, as you suggest, are not attributable to simple errors of judgment or a typo. It remains our belief that the date on which the tax sale takes place begins the period for which computation begins to run, however that particular day is not included in the computation. Accordingly, the last day in the period of computation should be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday.

We do appreciate you bringing this matter to our attention and hope we have clarified that problematic area of the law that has too frequently caused confusion.

Very truly yours,



Anne Marie Crosswell  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General