

1975 WL 29029 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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\*1 (1) Section 65-2002 provides procedure to be used to collect taxes when taxpayers reside in another county or possess property or debts therein.

(2) Personal property may be sold for delinquent taxes after advertising the same for fifteen days.

Honorable James P. Harrelson

Senator

District No. 15

#### QUESTIONS:

(1) When a mobile home is removed from the County without payment of taxes when owned by the individual and also when a dealer leaves the County and takes the mobile homes off his sales lot, how does the delinquent tax collector go about collecting the delinquent taxes when the property is moved to another county?

(2) How is the sales date of property for nonpayment of taxes set?

#### STATUTES INVOLVED

Question (1) Sections 65-2002, 65-2003 and 65-2702.

Question (2) Sections 10-1761, 65-2766 and 65-2780.

#### DISCUSSION

Question (1).

Section 65-2702 provides authority for the issuance of a tax execution when property is 'about to be removed' or 'otherwise taken' from the county. The execution would be for taxes for the current year and the section gives authority for the levy and sale of such property under the execution. The Section provides:

'As of December thirty-first a first lien shall attach to all real and personal property for taxes to be paid during the ensuing year, and in case such property is about to be removed from the State by bankruptcy proceedings or otherwise or is about to be taken from the jurisdiction of the county before taxes are due in the county and payable for any year, the treasurer of such county shall immediately issue his execution on such property and the sheriff of the county shall proceed to collect the taxes due on such property.'

Section 65-2002 provides the procedure to collect taxes when the taxpayer resides in another county or possesses property or debts due therein. The statute is as follows:

'If, after the return of any chattel 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 per cent 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 per cent 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 per cent 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.'

\*2 Section 65-2003 declares such removal where accompanied by fraudulent intent to be a misdemeanor and creates a presumption therefor. The Section provides:

'Any person whose merchandise or other personal property has been assessed for taxation who shall, with fraudulent intent to evade the payment of taxes, remove such personal property from the county in which it has been assessed for taxation and sell or dispose of it shall be guilty of a misdemeanor. The removal and sale of all or a major portion of such property beyond the borders of the county in which the property has been assessed for taxation shall be prima facie evidence of intent to defraud and of a violation of the provisions of this section. Any person found guilty of violating the provisions of this section shall be punished by a fine of not exceeding one thousand dollars or by twelve months' imprisonment or by both fine and imprisonment within the discretion of the court. But should the taxes due on such personal property together with all penalties and costs be paid within ten days after the arrest of the person so offending, then prosecution under this section shall be discontinued.'

Question (2).

Section 65-2780 provides that when personal property is to be sold for nonpayment of taxes, the sale is to be held on a regular sales date and Section 65-2766 provides that the property (real personal or both) is to be sold on regular sales dates Section 10-1761 provides for such days. That Section declares the first Monday in each month as the regular sales day, however, personal property may be sold on any day after advertising the same for fifteen days.

#### CONCLUSION

Taxes may be collected from a delinquent taxpayer who resides in another county or has property in such county pursuant to the provisions of Section 65-2002 of the Code. The sales day for property to be sold for nonpayment of property taxes is set by Section 10-1761 of the Code.

Joe L. Allen, Jr.  
Assistant Attorney General

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