

1975 WL 29190 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 20, 1975

*1 The taxable status of personal property of an individual that is not used in a business is December 31 preceding the tax year.

TO: Mr. Janice D. Hulbert
Goose Creek City Clerk-Treasurer

QUESTION

A resident of the City of Goose Creek was the owner of an automobile on December 31, 1974, that had a tax with in the City an that date. The owner moves without the City on January 5, 1975, carrying the automobile with him. Is the automobile subject to the City tax for the tax year?

STATUTES

Section 65-1644 and 65-1504.

DISCUSSION

It is assumed for purposes of this opinion that the City's tax year was the same as that of Berkeley County, from December 31, 1974 through December 30, 1975. Section 65-1644 provides in part than.

'Every person * * *, shall, annually, * * * make out and deliver to the auditor * * * a statement, * * * of all real and personal property possessed by him, or under his control, on the thirty-first day of December next preceding * * *.'

The State has, therefore, declared the date of December 31 as the date on which the taxable status of property is to be ascertained.

'Where statutes have fixed the time for determination of taxable status of property, it should be taxed to the owner at such time.' 84 C.J.S., Taxation, Section 93, page 208.

The Honorable James A. Spruill, Jr., in the case of Atkinson Dredging Company v. Thomas, a case from Charleston County which is now on appeal to the Supreme Court, in a related question stated:

'There is considerable appeal to the argument of plaintiff's counsel that his client, having established a tax situs, is willing to pay taxes but that it should have those taxes apportioned on the basis of the time it was present in Charleston County and securing benefits, opportunities and protection. This, however, is an argument which can be made as to any item of personal property. If a Charleston taxpayer had bought an automobile on Christmas Day, 1974, and that automobile had been totally destroyed on New Year's Day, he would, nonetheless, be liable to pay property tax for the entire year 1975. On the other hand, if he bought an automobile on January 2, 1975, he would owe no personal property tax on that for the year 1975. In an ideal state, it would probably be well to levy the personal property tax on a daily basis. However, this would be an administrative impossibility. Under our taxing system, there have always been inequalities

and inequities resulting from the fact that the tax for an entire year is contingent under Sec. 65-1644 on possession or control on the 31st day of December next preceding the tax year in question.'

CONCLUSION

It is, therefore, the opinion of this office that the taxable status of this property was determined on December 31, 1974.

Joe L. Allen, Jr.
Deputy Attorney General

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