

1974 S.C. Op. Atty. Gen. 108 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3742, 1974 WL 21259

Office of the Attorney General

State of South Carolina

Opinion No. 3742

March 27, 1974

***1 Funds held by the Highway Department under Section 33–140 of the Code should be remitted to the Tax Commission when presumed abandoned.**

Right of Way Engineer
South Carolina Highway Department

This is in reply to your request for the opinion of this office on whether certain funds held by the Highway Department are to be turned over to the Tax Commission pursuant to the terms of the Abandoned Property Act. The funds in question represent condemnation awards which have been refused by a property owner who has appealed the Condemnation Board's decision.

Section 33–140 of the Code provides that in case of an appeal by the property owner, the Department may proceed with the contemplated work after tendering the amount of the award to the owner. The statute further states:

'* * * . In such case the Department shall set aside the amount of the award, which shall be held intact pending the outcome of the appeal.'

Section 57–240.8 of the Abandoned Property Act provides as follows:

'All intangible personal property held for the owner by any * * * public authority or public officer of this State * * * that has remained unclaimed by the owner for more than seven years is presumed abandoned * * *.'

Section 33–140 provides for the funds to be held by the Department 'intact', however, Section 57–240.8 provides that dormant funds held by the Department for the owner are presumed abandoned and, therefore, are to be remitted to the Tax Commission.

It is a settled rule of law that if two statutes conflict, the one which is later in time is controlling. See *50 Am. Jur., Statutes, Section 543*.

It is the opinion of this office that the funds in question which are presumed abandoned under the terms of the Abandoned Property Act are to be remitted to the Tax Commission, notwithstanding the provisions of Section 33–140 of the Code.

John C. von Lehe
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