

1973 S.C. Op. Atty. Gen. 100 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3499, 1973 WL 20960

Office of the Attorney General

State of South Carolina

Opinion No. 3499

March 28, 1973

***1 A municipality has no authority to assess interest for the non-payment of ad valorem taxes unless specifically provided by statute and Section 47–253 now provides authority for a 15% penalty for late payment of municipal taxes.**

Greenville City Attorney

Mr. McLeod has handed me your letter of March 23, 1973, for attention and reply. You request the opinion of this office of whether a municipality may assess or charge interest for late payment of taxes in addition to the penalty provided for by Section 47–253 of the Code. The Section provides in part as follows:

‘Any council may provide for the payment of a penalty not exceeding fifteen percent of the taxes so levied for non-payment of such taxes when due, payable when the taxes become delinquent. * * *.’

Enclosed is a copy of an opinion of this office of August 5, 1963, providing that the fifteen percent penalty is the maximum charge allowed for non-payment of taxes. This office finds no authority conferred by statute nor has any been called to our attention to authorize a municipality to impose an interest charge in addition to the penalty provided by the Section.

It is well settled that the right to tax and the authority to collect therefor by a municipality are matters properly within the legislative bodies of the State and that a municipality can levy and collect a tax only when such legislative authority is provided. [Watson v. Orangeburg](#), 229 S. C. 367, 93 S. E. 2d 20, [Carroll v. York](#), 109 S. C. 1, 95 S. E. 121.

It is therefore the opinion of this office that without specific legislative authority no charges other than those provided for by Section 47–253 may be imposed by a municipality for non-payment of taxes.

Joe L. Allen, Jr.
Assistant Attorney General
South Carolina Tax Commission

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