CHAPTER 4

The South Carolina Department of Revenue

ARTICLE 1

Department Organization

**SECTION 12‑4‑10.** Department of Revenue created.

The South Carolina Department of Revenue is created to administer and enforce the revenue laws of this State; administer the licensing laws and regulations relating to alcoholic liquors, beer, and wine and assess penalties for violations thereof; and other laws specifically assigned to it.

HISTORY: 1991 Act No. 50, Section 2; 1993 Act No. 181, Section 102; 1996 Act No. 459, Section 8.

CROSS REFERENCES

Provisions of Chapter 4 of Title 12, applicable to property taxes, also apply to provisions governing fee in lieu of taxes, see Section 4‑29‑67.

Library References

Taxation 3530, 3686.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1901 to 1904, 2189, 2191 to 2193.

**SECTION 12‑4‑15.** Departmental divisions; supervision.

The Department of Revenue must be divided into such divisions as the director may prescribe.

HISTORY: 1993 Act No. 181, Section 103; 1996 Act No. 459, Section 9.

**SECTION 12‑4‑20.** Offices, materials and supplies.

The department must be provided all necessary offices, furniture, equipment, books, periodicals, and supplies necessary to conduct its duties.

HISTORY: 1991 Act No. 50, Section 2.

**SECTION 12‑4‑30.** Appointment of director; disposition of contested cases.

(A) The department is governed in matters of policy and administration by a director appointed by the Governor with the advice and consent of the Senate. The director may be removed from office pursuant to the provisions of Section 1‑3‑240.

(B) All contested cases, as defined by Section 1‑23‑310 must be heard by an administrative law judge pursuant to the provisions of Chapter 23 of Title 1.

HISTORY: 1991 Act No. 50, Section 2; 1993 Act No. 181, Section 104; 2005 Act No. 161, Section 2, eff June 9, 2005.

Library References

Taxation 2435, 3530, 3686.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 497, 501, 504 to 508, 1901 to 1904, 2189, 2191 to 2193.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Governor Section 8, When Senate is in Recess.

**SECTION 12‑4‑40.** Oath of office.

The director, within thirty days after notice of appointment and before taking office, shall take and file with the Secretary of State the oath of office prescribed by the State Constitution.

HISTORY: 1991 Act No. 50, Section 2.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Governor Section 8, When Senate is in Recess.

**SECTION 12‑4‑70.** Restriction on political activity and other acts of chairman interfering with or inconsistent with duties.

The director of the department shall devote the time required to perform the duties of the office and may not:

(1) engage in any occupation or business interfering with or inconsistent with his duties;

(2) serve on or under a committee of a political party; or

(3) contribute, directly or indirectly, money or anything of value in support of a candidate for office or to a political organization.

HISTORY: 1991 Act No. 50, Section 2.

ARTICLE 3

General Powers and Duties

**SECTION 12‑4‑310.** Mandated powers and duties.

The department shall:

(1) hold meetings, as considered necessary. The department may hold meetings, transact business, or conduct investigations at any place necessary; however, its primary office is in Columbia;

(2) formulate and recommend legislation to enhance uniformity, enforcement, and administration of the tax laws, and secure just taxation and improvements in the system of taxation;

(3) consult and confer with the Governor upon the subject of taxation, the administration of the laws, and the progress of the work of the department, and furnish the Governor reports, assistance, and information he may require;

(4) prepare and publish, annually, statistics reasonably available with respect to the operation of the department, including amounts collected, and other facts it considers pertinent and valuable;

(5) make available to the authorities of a political subdivision information reported to the department pursuant to the requirements of Chapter 36 of this title of businesses licensed under Section 12‑36‑510 in the requesting political subdivision;

(6) hire all necessary personnel, including officers, agents, deputies, experts, and assistants, and assign to them duties and powers as the department prescribes;

(7) require those of its officers, agents, and employees it designates to give bond for the honest performance of their duties in the sum and with the sureties it determines; and all premiums on the bonds must be paid by the department;

(8) pay travel expenses, purchase, or lease all necessary facilities, equipment, books, periodicals, and supplies for the performance of its duties;

(9) exercise and perform other powers and duties as granted to it or imposed upon it by law;

(10) make available to the authorities of a municipality or county in this State levying a tax based on gross receipts or net taxable sales, any records indicating the amount of gross receipts or net taxable sales reported to the department; provided, however, that income tax records may be made available only if the department first has satisfied itself that the gross receipts reported to the municipality or county were less than the gross receipts as indicated by the records of the department; and

(11) provide data and assistance to municipalities and counties in which Article 8, Chapter 1, Title 6, the Fairness in Lodging Act, is implemented.

HISTORY: 1991 Act No. 50, Section 2; 1991 Act No. 168, Section 3; 1992 Act No. 361, Section 2; 1996 Act No. 431, Section 2; 2014 Act No. 261 (S.985), Section 4, eff June 9, 2014.

Effect of Amendment

2014 Act No. 261, Section 4, added subsection (11), relating to the Fairness in Lodging Act.

CROSS REFERENCES

Confidentiality requirements of Article 7, Chapter 4 of Title 12 respecting creation and powers of Department of Revenue and Taxation, as not prohibiting the disclosure of information to county and municipal officials pursuant to this section, see Section 12‑54‑240.

Provisions of Chapter 4 of Title 12, applicable to property taxes, also apply to provisions governing fee in lieu of taxes, see Section 4‑29‑67.

Library References

Taxation 2435, 3530, 3686.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 497, 501, 504 to 508, 1901 to 1904, 2189, 2191 to 2193.

Attorney General’s Opinions

A county tax board of appeals is the proper authority to rule upon whether a notice of appeal to the board was timely made. This is jurisdictional and may be raised by the assessor on appeal to the South Carolina Department of Revenue and Taxation if such be necessary. 1986 Op Atty Gen, No. 86‑42, p. 129 (March 25, 1986) 1986 WL 192002.

South Carolina Department of Revenue and Taxation is without authority to delegate duty to collect delinquent taxes to independent contractors. 1984 Op Atty Gen, No. 84‑1, p. 16 (January 4, 1984) 1984 WL 159810.

Reasonable care and diligence required. The Tax Commission, pursuant to the provisions of this section [Code 1962 Section 65‑73], is required to furnish a municipality that imposes a license tax upon persons measured by such person’s gross income (receipts) information about such person’s gross income (receipts) from records possessed by the Commission when the Commission is satisfied that the gross income (receipts) reflected on the records possessed by the Commission is in an amount greater than that returned by the person to the municipality. The Commission should exercise reasonable care and diligence in determining whether such person returned a greater gross receipts to the Commission than to the municipality. 1967‑68 Op Atty Gen, No 2506, p 188 (September 11, 1968) 1968 WL 8902.

And no liability for disclosure of information is assessable against Commission. No liability for disclosure of information will be legally assessable against the Tax Commission when the Tax Commission uses such information as is readily available to it for the purpose of reporting. 1963‑64 Op Atty Gen, No 1748, p 250 (October 28, 1964) 1964 WL 8367.

It need not make complete field check or other minute examination. The legislative intent in passing this section was not that a complete field check or other minute examination of the returns be required in order to save the Tax Commission harmless from a situation wherein an “outside” taxpayer would be included in a list of “inside” taxpayers furnished to a municipality. 1963‑64 Op Atty Gen, No 1748, p 250 (October 28, 1964) 1964 WL 8367.

Section permits disclosure of amounts of sales in particular municipality. This section [Code 1962 Section 65‑73] permits the lawful disclosure by the Tax Commission to a particular municipality of the amounts of sales (receipts) in that particular municipality reported to the Commission. 1963‑64 Op Atty Gen, No 1748, p 250 (October 28, 1964) 1964 WL 8367.

Tax Commission is required only to use such information as is readily available. In furnishing data to a municipality from sales tax returns, the Tax Commission is required only to use such information as is readily available to restrict the information to businesses located within a municipality. 1963‑64 Op Atty Gen, No 1748, p 250 (October 28, 1964) 1964 WL 8367.

NOTES OF DECISIONS

Estoppel 2

Reassessment 3

Valuation 1

1. Valuation

It was constitutionally and statutorily permissible for the South Carolina Tax Commission to tax manufacturing plants in various counties on a valuation that reasonably approximated fair market value while the counties involved taxed certain classes of property on a valuation substantially less than fair market value where there had been no intentional failure of the counties to reassess the property under their jurisdiction; the property was being assessed by the counties as equally and uniformly as possible; the property being assessed at less than true market value represented a minority of the property in the counties concerned; and to grant the manufacturers’ request to lower their assessment would not equalize assessments, but might further compound any inequity which might exist. Owen Steel Co., Inc. v. South Carolina Tax Com’n (S.C. 1985) 287 S.C. 274, 337 S.E.2d 880, certiorari denied 106 S.Ct. 1643, 475 U.S. 1123, 90 L.Ed.2d 188.

2. Estoppel

Doctrine of estoppel cannot be applied against tax commission to prevent commission from retroactively requiring change from accounting method improperly granted taxpayer. Texaco, Inc. v. Wasson (S.C. 1977) 269 S.C. 255, 237 S.E.2d 75.

3. Reassessment

A reassessment of property pursuant to former Section 12‑3‑140(22) was ineffective as to a subsequent purchaser of the property, where the assessment was not certified to the county auditor prior to the conveyance. Arrow Automotive Industries, Inc. v. Brady (S.C. 1983) 280 S.C. 79, 310 S.E.2d 661. Taxation 2571

**SECTION 12‑4‑320.** Permissive powers and duties; rules, regulations, rulings, decisions; agreement or compromise as to taxpayer liabilities.

The department may:

(1) make rules and promulgate regulations, not inconsistent with law, to aid in the performance of its duties. The department may prescribe the extent, if any, to which these rules and regulations must be applied without retroactive effect;

(2) upon written application, determine the tax effects of transactions and the tax liability of taxpayers, upon facts furnished to it, and it may revoke or modify the rulings if the facts should develop differently later. The department, in its discretion, may publish these rulings. This publication may be in brief hypothetical form so as to give all pertinent facts and decisions without violating the provisions of Section 12‑54‑240;

(3) compromise any tax, interest, or penalty imposed by this title or other law assigned to it and may return to the owner, in whole or in part, any goods seized or confiscated;

(4) enter into a written agreement with a person with regard to a tax liability. If the agreement is approved by the director, it is final and conclusive and the case may not be reopened by administrative or judicial action or otherwise, except in cases of fraud, malfeasance, or misrepresentation;

(5) publish its findings and decisions in all controversies resolved by it. This publication may be in brief hypothetical form so as to give all pertinent facts, decisions, and reasons without violating the provisions of Section 12‑54‑240;

(6) for damage caused by war, terrorist act, or natural disaster or service with the United States armed forces or national guard in or near a hazard duty zone, extend the date for filing returns, payments of taxes, collection of taxes, and conducting audits, and waive interest and penalties;

(7) enter into an installment payment agreement with a taxpayer.

HISTORY: 1991 Act No. 50, Section 2; 1994 Act No. 516, Section 26; 1999 Act No. 114, Section 4; 2007 Act No. 110, Section 36, eff June 21, 2007; 2007 Act No. 116, Section 42, eff June 28, 2007, applicable for tax years beginning after 2007.

CROSS REFERENCES

Tax amnesty period, see Section 12‑4‑397.

Library References

Taxation 2095, 2761, 2800, 3554, 3560, 3697, 3705.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 995, 1019, 1022, 1027 to 1034, 1109, 1824, 1925 to 1926, 2206, 2212.

Attorney General’s Opinions

When agricultural land values within counties with soil maps change by reason of the modification of elements within the statute that sets forth the procedure to determine those values, then in such cases, the agricultural land values in counties without soil maps must be equalized to insure that all agricultural lands are equally and uniformly assessed. 1985 Op Atty Gen, No. 86‑34, p 111 (March 10, 1986) 1986 WL 191996.

NOTES OF DECISIONS

Rules and regulations 1

1. Rules and regulations

The Tax Commission’s decision to use an internal memorandum, rather than a regulation, to issue its determination that the Bingo Act (Sections 12‑21‑3310 et seq.) prohibited use of runners employed by bingo operators to fill in for players, did not violate the commission’s Revenue Procedures 87‑1 and 87‑3 (published under former Section 12‑3‑130), and thus prosecution of a bingo operator for using runners was not improper, since the issuance of guidelines in the form of a regulation was discretionary, as indicated by use of the word “may” in Revenue Procedure 87‑1(c). (Decided under former Section 12‑3‑130.) Home Health Service, Inc. v. South Carolina Tax Com’n (S.C. 1994) 312 S.C. 324, 440 S.E.2d 375, rehearing denied. Gaming And Lotteries 206(3)

While Tax Commission is vested with rulemaking for purposes of carrying out legislative will expressed in statutory term, it has no authority to enact new laws in nature of regulations to satisfy its own theory of income tax. (Decided under former statute.) Hay v. South Carolina Tax Commission (S.C. 1979) 273 S.C. 269, 255 S.E.2d 837. Taxation 3442

**SECTION 12‑4‑325.** Defense and indemnification of Department of Revenue employees and officers.

(A) The State shall defend employees and officers of the Department of Revenue against liability arising out of their actions within the scope of their employment and indemnify them from resulting loss when they are sued in their official or individual capacities, or both.

(B) Department of Revenue employees and officers are acting within the scope of their employment when administering any South Carolina statute which has not been held to be unconstitutional or unlawful by a final decision of a court of competent jurisdiction. For purposes of this section, a final decision is the decision of a court declaring the South Carolina statute unconstitutional or otherwise unlawful and from which the appropriate officials of this State may not or do not take an appeal or request a rehearing.

HISTORY: 1998 Act No. 432, Section 1.

Library References

Taxation 2450, 2822.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 525 to 527, 1147, 1824.

**SECTION 12‑4‑330.** Witnesses before department.

(A) The director may summon witnesses to appear and give testimony and to produce records, books, papers, and documents relating to any matters which the department has authority to investigate or determine.

(B) The director may cause the deposition of witnesses residing within or without the State or absent from the State to be taken upon notice to the interested party, if any, in the manner that depositions of witnesses are taken in civil actions pending in the circuit court in any matter which the department has authority to investigate or determine.

(C) Oaths to witnesses may be administered by the department. A person who testifies falsely in a matter under consideration by the department is guilty of and, upon conviction, will be punished for perjury.

(D) An officer who serves summons or subpoenas and a witness appearing before the Department of Revenue receive the same compensation as an officer and a witness in the circuit court. The department may incur and pay the expense of obtaining expert witnesses or of other evidence for use by the department in a judicial or administrative proceeding. This compensation and expert witness expense must be paid upon certificate of the department by the State Treasurer, by drawing upon funds from the tax on income as provided by Section 12‑6‑510.

(E) Out‑of‑state appraisers serving as witnesses are not required to be licensed or certified in this State. For purposes of this section, out‑of‑state appraisers are defined as appraisers with a business address outside of this State.

(F) The director of the Department of Revenue and the officers designated by the director may administer oaths to any person or take acknowledgments of any person in respect of any return or report required by this title or the rules and regulations of the department.

HISTORY: 1991 Act No. 50, Section 2; 1994 Act No. 516, Section 27; 1995 Act No. 76, Section 9; 1998 Act No. 432, Section 2.

Library References

Taxation 2676, 3547, 3694.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 841 to 842, 1911 to 1916, 2197 to 2198.

**SECTION 12‑4‑340.** Authority to contract with collection agency to collect delinquent taxes.

The department, for the purposes of collecting delinquent taxes due from a taxpayer, may contract with a collection agency, within or without the State, for the collection of delinquent taxes, including penalties and interest as provided in Section 12‑54‑227.

HISTORY: 1991 Act No. 50, Section 2; 1993 Act No. 164, Part II, Section 101.

CROSS REFERENCES

Procedures for out‑of‑state collection of delinquent taxes, see Section 12‑54‑227.

United States Supreme Court Annotations

Prohibition under Tax Injunction Act (28 USCA Section 1341) of Federal District Courts from interfering with assessment, levy, or collection of state taxes. 67 L Ed 2d 906.

**SECTION 12‑4‑350.** Contracts for computer and data processing services; confidentiality of data.

The department may contract for computer and other electronic data processing services as it considers necessary. A person, firm, or governmental entity and their employees, under contract with the South Carolina Department of Revenue, having access to information contained in or produced from a tax return, document, or magnetically or electronically stored data may not publish or disclose any part or parts of the data or information resulting from the data except to the department, or as authorized by the department, or as otherwise provided by law or by an order of a court of competent jurisdiction. This provision does not exempt the department from the provisions of the South Carolina Consolidated Procurement Code.

HISTORY: 1991 Act No. 50, Section 2; 1993 Act No. 181, Section 106.

CROSS REFERENCES

South Carolina Consolidated Procurement Code, see Section 11‑35‑10 et seq.

Library References

Taxation 2800, 3560, 3705.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1109, 1824, 1926, 2212.

**SECTION 12‑4‑360.** Verification by department to retirement systems of information on individual income tax returns.

The department, when requested by the Retirement Systems Division of the Public Employee Benefit Authority, shall verify information contained on individual income tax returns to assist the retirement systems in ascertaining if an individual receiving disability benefits has gainful employment for which he is receiving compensation. The retirement systems shall furnish the department information it requests to verify the information.

HISTORY: Added as Section 12‑3‑280, 1991 Act No. 171, Part II, Section 43A; Redesignated as Section 12‑4‑360 by 1991 Act No. 171, Part II, Section 43C.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

Taxation 3540.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1834, 1903.

**SECTION 12‑4‑370.** Disposition of funds collected on warrants for distraint and funds in Warrant Revolving Fund.

Funds received from the collection of warrants for distraint may not be expended to supplement appropriations to the Department of Revenue. Any unexpended balance in the “Warrant Revolving Fund” less an amount necessary for adequate cash flow must be deposited to the credit of the general fund of the State.

HISTORY: 1991 Act No. 168, Section 4; 1993 Act No. 181, Section 107.

Library References

Taxation 3235, 3564, 3713.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1786, 1792, 1797 to 1800, 1823, 1927, 2222.

**SECTION 12‑4‑375.** Retention and expenditure of funds from bankruptcy operations.

The Department of Revenue may retain and expend in budgeted operations the first one hundred fifty thousand dollars in each fiscal year from its bankruptcy operations to defray its administrative costs, including staff. The remaining revenue collected by the department from this source must be remitted to the general fund of the State.

HISTORY: 2008 Act No. 353, Section 2, Pt 21F, eff July 1, 2009.

**SECTION 12‑4‑377.** Records of and disposition of funds from sale of confiscated alcoholic beverages.

The Department of Revenue shall maintain adequate records accounting for the receipt of funds from the sale of confiscated alcoholic beverages. The revenue from the sale must be deposited to the credit of the general fund of the State after deducting the costs of confiscation and sale.

HISTORY: 2008 Act No. 353, Section 2, Pt 21B, eff July 1, 2009.

Library References

Taxation 3713.

Westlaw Topic No. 371.

C.J.S. Taxation Section 2222.

**SECTION 12‑4‑379.** Payment of fee required for Federal Refund Offset Program.

The Department of Revenue may incur and pay the expense of the fee required pursuant to Internal Revenue Code Section 6402(e)(6), as required for the Federal Refund Offset Program. This fee must be paid upon certification of the department by drawing upon funds from the same tax type setoff.

HISTORY: 2008 Act No. 353, Section 2, Pt 21C, eff July 1, 2009.

**SECTION 12‑4‑380.** Report to General Assembly.

Within thirty days of final settlement, the department shall report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, the details of all tax liabilities reduced by order of the director.

HISTORY: 1996 Act No. 458, Part II, Section 99A; 1997 Act No. 155, Part II, Section 43A.

**SECTION 12‑4‑385.** Proposed change in policy concerning particular industry group; notice.

The department shall notify the appropriate licensing division of the Department of Labor, Licensing and Regulation when the department proposes a change in policy concerning a particular industry group. The department shall also notify any known industry groups.

HISTORY: 2003 Act No. 69, Section 3.WW.2, eff July 1, 2003.

**SECTION 12‑4‑387.** Conduct of audits to promote voluntary compliance and collection of revenues.

The Department of Revenue shall use available personnel to conduct audits involving all taxes to promote voluntary compliance and to collect revenues for the general fund of the State and designated accounts.

HISTORY: 2008 Act No. 353, Section 2, Pt 21H, eff July 1, 2009.

Library References

Taxation 3530, 3686.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1901 to 1904, 2189, 2191 to 2193.

**SECTION 12‑4‑388.** Fees for education and training programs, certificates of compliance and other documents, and entry into installment agreements.

(A) The Department of Revenue may charge participants a fee to cover the cost of education and training programs. The revenue generated may be applied to the cost of the related operation, and any unexpended balance may be carried forward to succeeding fiscal years and used for the same purposes.

(B) The Department of Revenue may charge participants in taxpayer education and information programs required pursuant to Section 12‑58‑40 a fee to recover the related direct costs. The revenue of this fee may be applied to these costs, and any unexpended balance may be carried forward to succeeding fiscal years and used for the same purposes.

(C) The Department of Revenue may impose a sixty‑dollar fee for the issuance of each certificate of compliance and a thirty‑five dollar fee for each informal nonbinding letter concerning eligibility for infrastructure credits against the license tax. The revenue of these fees must be retained and expended for use in budgeted operations of the department.

(D) The Department of Revenue may impose a forty‑five dollar fee for entering into installment agreements for the payment of tax liabilities to defray administrative expenses. The revenue of this fee must be retained and expended for use in budgeted operations of the department.

HISTORY: 2008 Act No. 353, Section 2, Pt 21A, eff July 1, 2009.

Library References

Taxation 2761, 3554, 3697.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 995, 1019, 1022, 1027 to 1034, 1925, 2206.

**SECTION 12‑4‑390.** Document handling fees; disposition of bingo revenues; department employee professional licensing costs.

(A) The Department of Revenue may collect fees to recover the costs of the production, purchase, handling and mailing of documents, publications, records and data sets, and such funds shall be retained by the agency.

(B) As to revenue derived from the provisions of Chapter 21, Title 12, which is collected from bingo, the Department of Revenue may withhold from the general fund a portion of the revenue the actual costs of bingo audit activity and of criminal record checks pursuant to the evaluation of applications for bingo licenses.

(C) Whenever a professional designation or license is a legislatively mandated requirement for employment by the Department of Revenue, the department is responsible for the annual cost to maintain that required designation or license and provide for examination cost associated with such designation or license if not outside his normal duties.

HISTORY: 2002 Act No. 356, Section 1, Pt X.A, eff July 1, 2002.

Library References

Gaming 4.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 26 to 42.

**SECTION 12‑4‑393.** Contracting with private entities to establish data mining and data warehousing capabilities within department.

The Department of Revenue may contract with private entities to establish data mining and data warehousing capabilities within the department to enhance compliance and collections. These contractual arrangements may include payment from the increased revenue generated by the resulting enhanced capabilities. The department is allowed reimbursement of costs associated with administration of this section from the data warehouse generated collections and this amount may be retained and expended for budgeted operations of the department.

HISTORY: 2008 Act No. 353, Section 2, Pt 21D, eff July 1, 2009.

**SECTION 12‑4‑395.** Authority to accept payment by credit card.

The department may accept, on terms and conditions it establishes, payments to it by credit cards. This authority includes a determination not to accept credit card payments or to accept credit card payments only for certain classes of payments as specified by the department. Notwithstanding another provision of law, the State Treasurer may enter into contracts on behalf of the department by which the department may accept credit card payments. The department may withhold the actual cost of processing credit card payments from deposits of the payments and may treat these withholdings as reimbursements of the associated expenditures.

HISTORY: 2000 Act No. 399, Section 3(D)(2); Redesignated by 2006 Act No. 386, Section 3, eff June 14, 2006.

Library References

Taxation 2761, 3554, 3697.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 995, 1019, 1022, 1027 to 1034, 1925, 2206.

**SECTION 12‑4‑397.** Tax amnesty period.

(A) In order to encourage the voluntary disclosure and payment of taxes owed to the State, the General Assembly finds it desirable to allow the Department of Revenue to designate an amnesty period which has a beginning and ending date from time to time as determined by the department. During the amnesty period, the department shall waive the penalties and interest or portion of them at its discretion imposed pursuant to Titles 12, 27, and 61 for a taxpayer who voluntarily files delinquent returns and pays all taxes owed. If the department establishes an amnesty period pursuant to this section, it must notify the General Assembly of the amnesty period at least sixty days before the commencement of the amnesty period.

(B) If a taxpayer is granted amnesty, the department shall not initiate a criminal investigation or refer the taxpayer to the Office of the Attorney General for criminal prosecution for the tax or tax periods covered by the granting of amnesty.

(C) The department shall grant amnesty to a taxpayer who files a request for an amnesty form and:

(1) voluntarily files all delinquent tax returns and pays in full all taxes due;

(2) voluntarily files an amended tax return to correct an incorrect or insufficient original return and pays all taxes due; or

(3) voluntarily pays in full all previously assessed tax liabilities due within an extended amnesty period which begins at the close of the amnesty period and runs for a period of time as determined by the department. The department may set up installment agreements as long as all taxes are paid within this period. An installment agreement must be agreed upon before the close of the amnesty period established pursuant to subsection (A).

(D) The department shall not grant amnesty to a taxpayer who is the subject of a state tax‑related criminal investigation or criminal prosecution.

(E) The department shall not waive penalties and interest attributable to any one filing period if the taxpayer has outstanding liabilities for other periods.

(F) A taxpayer who has an appeal pending with respect to an assessment made by the department is eligible to participate in the amnesty program if the taxpayer pays all taxes owed. Payment of the outstanding liability does not constitute a forfeiture of appeal or an admission of liability for the disputed assessment.

(G) The department must be reimbursed the administrative costs associated with the amnesty period in the amount of five percent of the amounts collected through amnesty. This amount may be retained and expended for budgeted operations.

(H) The department may review all cases in which amnesty has been granted and may on the basis of mutual mistake of fact, fraud, or misrepresentation rescind the grant of amnesty. A taxpayer who files false or fraudulent returns or attempts in any manner to defeat or evade a tax under the amnesty program is subject to applicable civil penalties, interest, and criminal prosecution.

(I) Compromised liabilities as allowed by Section 12‑4‑320(3), may be eligible for relief under the amnesty period at the department’s discretion.

(J) Any overdue tax debt, as defined in Section 12‑55‑30, remaining unpaid may have imposed on it at the department’s discretion an additional ten percent collection assistance fee. This collection assistance fee initially may be imposed on any overdue tax debt at the close of the extended amnesty period as prescribed by the department. This additional collection assistance fee only may be imposed for a period of one year after the close of the extended amnesty period.

HISTORY: 2015 Act No. 85 (S.526), Section 1, eff June 8, 2015.

ARTICLE 5

Powers and Duties with Respect to Property Taxes

**SECTION 12‑4‑510.** Power to levy taxes and order reassessment of property; grant of powers previously granted to State Board of Equalization and State Board of Assessors.

In addition to other powers and duties required by law, the department, in order to administer effectively the equitable assessment of property for taxation:

(1) has all of the powers conferred by law upon the former State Board of Equalization and upon the former State Board of Assessors before February 20, 1915;

(2) annually shall make the levy upon the assessed value of property subject to taxation necessary to raise the annual appropriations made by the General Assembly as it relates to private carlines and flight equipment;

(3) shall order reassessment of real and personal property, or any class or classes of either, or when, in the judgment of the department, the reassessment is advisable or necessary to the end that all classes of property in the assessment district are assessed in compliance with the law.

HISTORY: 1991 Act No. 50, Section 2.

CROSS REFERENCES

Provisions of Chapter 4 of Title 12, applicable to property taxes, also apply to provisions governing fee in lieu of taxes, see Section 4‑29‑67.

Library References

Taxation 2445, 2571, 2621.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 503, 513 to 515, 540, 601, 608 to 609, 613, 703.

Attorney General’s Opinions

The Tax Commission is required to review the actions of the county assessors and auditors in regard to the valuation of real and personal property and is required to enforce the provisions of the Constitution and law requiring property to be uniformly and equally assessed; the Commission’s authority in regard to questions and issues unrelated to equalization and reassessment is general and must be coordinated with the specific procedures and requirements of the Comptroller General. 1978 Op Atty Gen, No 78‑84, p 112 (May 5, 1978) 1978 WL 22565.

The South Carolina Tax department has no statutory authority to equalize tax assessments between counties so as to cause property of a single district comprised in part by an area of both counties to be taxed in two separate assessments. 1974‑75 Op Atty Gen, No 3934, p 16 (January 16, 1975) 1975 WL 22232.

Tax department does not have statutory authority to assess omitted property for the years that such property was omitted, such authority being limited by statute to the county auditor. 1967‑68 Op Atty Gen, No 2528, p 218 (October 18, 1968) 1968 WL 8923.

Reassessment of real and personal property. The South Carolina Tax department is statutorily authorized to order a reassessment for the valuation of real and personal property for ad valorem tax purposes when it finds the same to have been assessed differently than provided by law or when such reassessment is requested by a county legislative delegation. 1966‑67 Op Atty Gen, No 2283, p 98 (May 29, 1967) 1967 WL 8594.

**SECTION 12‑4‑520.** Dealings with county tax officials; oversight of county taxation matters.

The department:

(1) shall call meetings of all county assessors to provide instruction as to the law governing the assessment and taxation of all classes of property and shall formulate and prescribe rules to govern assessors and county boards of tax appeals in the discharge of their duties;

(2) shall confer with, advise, and direct assessors and county boards of tax appeals as to their duties pursuant to the laws of the State;

(3) may visit counties in the State to investigate the assessment, equalization, and taxation of property subject to taxation and take action necessary to ensure the proper assessment, equalization, and taxation of the property;

(4) as often as annually, may examine the books, papers, and accounts of assessors, auditors, treasurers, and tax collectors, to protect the interests of the State, counties, and other political subdivisions and to render these officers aid or instruction. The department does not have jurisdiction over personnel or equipment purchases of political subdivisions;

(5) shall require county auditors to place upon the assessment rolls omitted property that may have escaped assessment and taxation in whole or in part, in the current or previous years; and

(6) may extend the time for the performance of the duties imposed upon the county assessors or auditors for the valuation of property for tax purposes, and, if the department extends the time for the collection of taxes, the department may postpone the time for the imposition of penalties.

HISTORY: 1991 Act No. 50, Section 2; 2006 Act No. 386, Section 55.B, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 1, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 1, in (4), substituted “may examine” for “shall examine”.

Library References

Taxation 2444, 2568, 2569.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 503, 513 to 515, 520 to 524, 540, 607, 759, 765 to 768.

NOTES OF DECISIONS

Reassessment 1

1. Reassessment

Department of Revenue and Taxation lacked power to ratify reassessment of real property for tax purposes or to order reassessment without conducting its own investigation. Long Cove Home Owners’ Ass’n, Inc. v. Beaufort County Tax Equalization Bd. (S.C. 1997) 327 S.C. 135, 488 S.E.2d 857. Taxation 2571

**SECTION 12‑4‑530.** Investigation and prosecution of violations.

The department may:

(1) examine cases in which the laws of this State relating to the valuation, assessment, or taxation of property is complained of, or discovered to have been evaded or violated in any manner;

(2) require the Attorney General or circuit solicitor to assist in the commencement and prosecutions of actions and proceedings for penalties, forfeitures, removals, and punishment for violation of the laws of this State in respect to the assessment and taxation of property;

(3) direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to penalties, liabilities, and punishment of public officers and officers and agents of corporations for failure or neglect to comply with the provisions of the laws of this State governing the assessment and taxation of property and the rules of the department; and

(4) cause complaints to be made against assessors, county boards of tax appeal, or other assessing and taxing officers to the proper authority for their removal from office for official misconduct or neglect of duty.

HISTORY: 1991 Act No. 50, Section 2; 2015 Act No. 87 (S.379), Section 2, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 2, in the introductory paragraph, substituted “The department may” for “The department shall”.

Library References

Taxation 2433, 2452.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 497, 501 to 502, 504 to 508, 518 to 519, 529.

**SECTION 12‑4‑535.** Department determinations.

(A) The department may issue a department determination directing the appropriate county official to comply with all applicable state law relating to the valuation, assessment, or taxation of property.

(B) Within thirty days of the date the department determination is mailed or hand delivered, the county must respond in writing by first class mail or hand delivery to the department and state its agreement or disagreement with the department determination.

(C) If the county disagrees with, or fails to respond to, the department determination, the department by its director or designee or the county governing body by resolution may request a contested case hearing before the Administrative Law Court within thirty days after the date the county disagreement notice was, or should have been, mailed or hand delivered. A request for a contested case hearing before the Administrative Law Court must be made in accordance with its rules.

(D) The county governing body by resolution may request a department determination on any state law regarding the valuation, assessment, or taxation of property. Within thirty days of a request by a county governing body, the department may issue, in its discretion, the determination, which must be issued by first class mail or hand delivery to the county.

HISTORY: 2007 Act No. 110, Section 35, eff June 21, 2007; 2007 Act No. 116, Section 41, eff June 28, 2007, applicable for tax years beginning after 2007.

**SECTION 12‑4‑540.** Appraisal, assessment and equalization by department; appraisal, assessment and equalization of certain business property.

(A)(1) The department has the sole responsibility for the appraisal, assessment, and equalization of the taxable values of corporate headquarters, corporate office facilities, and distribution facilities and of the real and personal property owned by or leased to the following businesses and used in the conduct of their business:

(a) manufacturing;

(b) railway;

(c) private carline;

(d) airline;

(e) water, heat, light and power;

(f) telephone;

(g) cable television;

(h) sewer;

(i) pipeline;

(j) mining.

(2) In addition, the department has the sole responsibility for the appraisal, assessment, and equalization of the taxable values of the personal property of merchants.

(B) Except as otherwise provided, the department may use any accepted or recognized valuation method which reflects the property’s fair market value, including methods within the unit valuation concept. In assessing railroad transportation property, the department shall use the unit valuation concept.

(C) When the unit valuation concept is used, the value allocated to this State must be distributed to the taxing entities in which the property is situated.

(D) Except as otherwise provided, the department shall assess all real and personal property, leased or used, to the owner.

(E) When the department uses the unit valuation concept, property taxes on all leased and used real and personal property must be paid by the lessee. Whether or not the unit valuation concept is used, an airline or private carlines shall pay property taxes on all leased real and personal property in its control.

(F) If the department discovers that property required by law to be returned to the department has not been returned, the department may value and assess the property. If property has been returned or assessed incorrectly, the department may value and assess the property and give notice to the taxpayer of the valuation and assessment. After the expiration of the appeal period, the department shall certify the corrected assessment to the county auditor of the county where the property is located.

HISTORY: 1991 Act No. 50, Section 2; 2005 Act No. 161, Section 3, eff upon approval (became law without the Governor’s signature on June 9, 2005).

CROSS REFERENCES

Classification of assessed property of manufacturers and of railroads, private carlines, airlines, water, power, telephone, cable television, sewer and pipeline companies, as provided in this section, see Section 12‑43‑335.

Library References

Taxation 2510 to 2573.

Westlaw Topic No. 371.

C.J.S. Commerce Section 148.

C.J.S. Taxation Sections 568 to 613, 615, 617, 626, 628 to 661, 759, 762 to 775, 892, 1044, 1817.

**SECTION 12‑4‑550.** Requirement for public officers, and for all persons, to furnish information in connection with taxes.

The department shall:

(1) require municipal, county, and other public officers to report information as to the assessment of property, collection of taxes, receipts from licenses and other sources, and information necessary in the work of the department in the form the department prescribes; and

(2) require all persons to furnish information concerning their capital, bonded or other debts, current assets and liabilities, value of property, earnings, operating and other expenses, taxes, and other facts necessary for the department to ascertain the value and relative tax burden borne by all kinds of property.

HISTORY: 1991 Act No. 50, Section 2.

CROSS REFERENCES

Form to provide Department of Revenue with information for ratio studies, county administrative requirements, see S.C. Code of Regulations R. 117‑1740.

Library References

Taxation 2462, 2493.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549, 618 to 625.

**SECTION 12‑4‑560.** Manuals, guides, and aids to assessment; listing of property by groups and classes.

The department shall prepare appropriate manuals, guides, and other aids for the equitable assessment of all properties and prepare suitable forms for an adequate listing and description of property by groups and classes.

HISTORY: 1991 Act No. 50, Section 2.

CROSS REFERENCES

Valuation of property subject to property taxes, see S.C. Code of Regulations R. 117‑1840.

**SECTION 12‑4‑570.** Report of all taxable property and its value.

The department, at the request of the Governor or a member of the General Assembly, shall prepare and make available a report showing all taxable property in the State and its value in tabulated form.

HISTORY: 1991 Act No. 50, Section 2.

**SECTION 12‑4‑580.** Authority allowing department to contract to collect outstanding liabilities.

(A) The department and another governmental entity may contract to allow the department to collect an outstanding liability owed the governmental entity. In administering the provisions of those agreements, the department has all the rights and powers of collection provided pursuant to this title for the collection of taxes and all the rights and powers authorized the governmental entity to which the liability is owed.

(B) The department may charge and retain a reasonable fee for a collection effort made on behalf of a governmental entity. The amount of the fee must be negotiated between the governmental entity and the department. The debtor must be given full credit toward the satisfaction of the debt for the amount of the fee collected by the department pursuant to this section.

(C) Governmental entities that contract with the department pursuant to this section and those entities whose debts are submitted for collection through an association shall indemnify the department against injuries, actions, liabilities, or proceedings arising from the collection or attempted collection by the department of the liability owed to the governmental entity.

(D) As used in this section:

(1) “Governmental entity” means the State and a state agency, board, committee, department, or public institution of higher learning; all political subdivisions of the State; all federal agencies, boards, and commissions; and a federal, state, county, or local governmental or quasi‑governmental entity. “Political subdivision” includes the Municipal Association of South Carolina and the South Carolina Association of Counties when these organizations submit claims on behalf of a county or local governmental or quasi‑ governmental entity.

(2) “Liabilities owed the governmental entity” has the same meaning as a “delinquent debt” as defined in Section 12‑56‑20(4).

(E) The governmental entity shall notify the debtor of its intention to submit the liability to the department for collection and of the debtor’s right to protest not less than thirty days before the liability is submitted to the department for collection. The notice, hearing, appeals, and other provisions contained in Section 12‑56‑50 through 12‑56‑120 apply to this section with additional language in the notice letter as specified by the department.

HISTORY: 1996 Act No. 458, Part II, Section 59A; 1999 Act No. 93, Section 9; 2001 Act No. 89, Section 44, eff July 20, 2001; 2002 Act No. 363, Section 4C, eff July 1, 2002; 2003 Act No. 69, Section 3.KK.1, eff June 18, 2003.

CROSS REFERENCES

Default on payment of taxes, levy of execution by distress and sale, notice of delinquent taxes, seizure of property, advertisement of sale, see Section 12‑51‑40.

Library References

Taxation 2800.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1109, 1824.

ARTICLE 7

Application, Determination, and Revocation of Exemptions from Property Taxes

**SECTION 12‑4‑710.** Department to determine exemptions.

Except for the exemption provided by Section 12‑37‑220(A)(9), the department shall determine if any property qualifies for exemption from local property taxes under Section 12‑37‑220 in accordance with the Constitution and general laws of this State. This determination must be made on an annual basis and the appropriate county official so advised by June first of each year by the department.

HISTORY: 1991 Act No. 50, Section 2; 1995 Act No. 125, Section 1.

CROSS REFERENCES

Provisions of Chapter 4 of Title 12, applicable to property taxes, also apply to provisions governing fee in lieu of taxes, see Section 4‑29‑67.

Library References

Taxation 2365.

Westlaw Topic No. 371.

C.J.S. Taxation Section 419.

Attorney General’s Opinions

The application for the exemption of a motor vehicle licensed after February and before January of any year is to be made between January and February of the year following except for those vehicles exempt under section 12‑37‑220B (26) and (27) and church vehicles for which application are to be filed within sixty days before or within thirty days after the date on which such motor vehicles are registered or the registration renewal date. (Decided under former Section 12‑3‑145.) 1988 Op Atty Gen, No. 88‑91, p 253 (December 21, 1988) 1988 WL 383574.

Taxes paid on property exempt by reason of an extension of the time period in which to apply for the exemption are to be refunded under Section 12‑47‑420. (Decided under former Section 12‑3‑145.) 1988 Op Atty Gen, No. 88‑45, p 138 (May 12, 1988) 1988 WL 383528.

No tax return is required for the assessment and taxation of merchant’s inventory for the 1988 and subsequent tax years. The merchant, however, must file an annual application for exemption and furnish the information required therefor. If the exemption is not filed, the inventory is taxable. (Decided under former Section 12‑3‑145.) 1987 Op Atty Gen, No. 87‑8, p 42 (January 26, 1987) 1987 WL 245417.

A will that devises property in life to joint tenants with the right of survivorship satisfies the ownership requirements in the survivor for homestead tax exemption purposes. (Decided under former Section 12‑3‑145.) 1982 Op Atty Gen, No 82‑49, p 54 (July 9, 1982) 1982 WL 155018.

NOTES OF DECISIONS

Construction with other laws 1

1. Construction with other laws

The legislature did not impliedly repeal Act No. 494 Sections 1‑2, 5, 1969 S.C. Acts 857‑859, creating the Charleston County Tax Exempt Board, by its enactment of former Section 12‑3‑145A, since that statute makes no reference to Act No. 494 and the Court of Appeals could find no evidence that the legislature intended to repeal the Act. Westview Baptist Church v. Rembert (S.C.App. 1985) 286 S.C. 30, 331 S.E.2d 382.

**SECTION 12‑4‑720.** Filing of applications for exemptions.

(A) Applications for property exemptions, other than the exemption provided by Section 12‑37‑220(A)(9), must be filed as follows:

(1) Except as otherwise provided any property owner whose property may qualify for property exemption shall file an application for exemption with the department within the period provided in Section 12‑54‑85(F) for claims for refund. This item does not relieve the taxpayer of any responsibility to file timely and accurate property tax returns.

(2) Owners of property exempt under Section 12‑37‑220(A)(8) shall file an application for exemption before the first penalty date for payment of property taxes.

(3) Applications for exemption are not required for properties owned by the United States Government or those exempt properties enumerated in Section 12‑37‑220(A)(1), (5), (6), (10), and (B)(9), (13), (14), (15), (17), (23), (25), and (30).

(B) If a taxpayer files a property tax return listing property as exempt, that listing is considered an application for exemption from property taxes.

(C) A taxpayer who is required to file property tax returns with the department shall claim any exemption on the return each year the property is exempt.

(D) Except for the requirement in subsection (C), the owner is not required to file more than one application for each exemption, unless there is a change in the status of the property as reported in the initial application or unless requesting an exemption for property which was not included in the initial or subsequent application.

HISTORY: 1991 Act No. 50, Section 2; 1994 Act No. 516, Section 28; 1995 Act No. 125, Section 2A; 1995 Act No. 125, Section 2B.

Library References

Taxation 2369.

Westlaw Topic No. 371.

C.J.S. Taxation Section 420.

**SECTION 12‑4‑730.** Declaration and certification of exemption; voiding of tax notices by auditor.

The department, upon receipt of an application and upon proper investigation, may declare the real and personal property of a property owner qualifying for an exemption from ad valorem taxation identified in this chapter as exempt and shall certify the exemption to the auditor’s office in the county in which the property is located. Upon certification by the department, the auditor shall void any tax notice applicable to the property.

HISTORY: 1991 Act No. 50 Section 2; 1992 Act No. 361, Section 3.

Library References

Taxation 2369.

Westlaw Topic No. 371.

C.J.S. Taxation Section 420.

NOTES OF DECISIONS

In general 1

Review 2

1. In general

Tax sale of property for failure to pay ad valorem property taxes for two tax years was valid even if tax notice for one of the tax years was retroactively voided on basis of award of tax exempt status to taxpayer for one of the tax years, such that taxpayer’s redemption of property was valid, which triggered tax sale purchaser’s statutory entitlement to 12 percent bid interest; taxpayer failed to pay undisputedly due back taxes for other tax year at issue until after tax sale, and this failure validated the tax sale. Crusader Servicing Corp. v. County of Laurens (S.C.App. 2009) 382 S.C. 25, 674 S.E.2d 495. Taxation 3031

2. Review

Neither the Tax Commission nor the courts were bound by erroneous interpretation of property tax statute made by Director of Property Division. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Taxation 2373; Taxation 2386

**SECTION 12‑4‑740.** Information to be furnished in support of request for exemption; inspection of premises.

(A) An owner of tax‑exempt property or a property owner requesting tax exemption shall furnish information and records requested by the department. The department and its agents may examine portions of the financial records of the owners of real and personal property as necessary to determine if the property qualifies for tax‑exempt status.

(B) The department and its authorized agents may enter the premises upon reasonable notice and inspect them for tax exemption purposes.

HISTORY: 1991 Act No. 50, Section 2.

Library References

Taxation 2369.

Westlaw Topic No. 371.

C.J.S. Taxation Section 420.

**SECTION 12‑4‑750.** Revocation of exempt status; imposition of tax and penalty.

(A) The department may revoke tax‑exempt status if the property does not qualify or continue to qualify for tax‑exempt status under the provisions of the Constitution and the general laws of the State.

(B) If the department finds within three years from the date that taxes would have been due on property that has been granted an exemption that the exemption was for any reason improperly granted due to incomplete, misleading, or fraudulent information furnished by the applicant or its agents, the department shall notify the appropriate county official, and the county auditor shall enter on the duplicate the taxes that would have been due for those years that the property escaped taxation, with an added ten percent penalty.

HISTORY: 1991 Act No. 50, Section 2.

Library References

Taxation 2308, 3216.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 285, 1728 to 1737.

NOTES OF DECISIONS

Review 1

1. Review

Former section 12‑3‑145(D) does not require taxpayer aggrieved by decision of South Carolina Tax Commission regarding exempt status to appeal to Tax Board of Review prior to initiating action under former Section 12‑47‑220 to recover taxes paid under protest. Greenville Baptist Ass’n v. Greenville County Treasurer (S.C.App. 1984) 281 S.C. 325, 315 S.E.2d 163. Taxation 2381