CHAPTER 39

County Auditors

**SECTION 12‑39‑10.** Repealed.

HISTORY: Former Section, titled Appointment, term and bond, had the following history: 1962 Code Section 65‑1741; 1952 Code Section 65‑1741; 1942 Code Section 2698; 1932 Code Sections 2698, 4041, 4398; Civ. C. ‘22 Section 433; Civ. C. ‘12 Section 381; Civ. C. ‘02 Section 339; G. S. 221; R. S. 272; 1881 (17) 1007; 1897 (22) 439; 1913 (27) 43, 146; 1914 (28) 400, 617, 619, 627; 1915 (29) 420, 445, 447, 515, 532; 1916 (29) 754, 793, 798, 799, 804; 1917 (30) 120, 121; 1918 (30) 798; 1919 (31) 75, 127, 132, 164; 1920 (31) 1041; 1922 (32) 774; 1923 (33) 544; 1924 (33) 978; 1925 (34) 88, 121, 144; 1928 (35) 1148; 1929 (36) 1, 93, 210; 1930 (36) 1173; 1931 (37) 31, 66; 1933 (38) 152; 1934 (38) 1222, 1230, 1428; 1935 (39) 171; 1940 (41) 1748; 1955 (49) 155. Repealed by 2015 Act No. 87, Section 21, eff June 11, 2015.

**SECTION 12‑39‑15.** County auditors, continuing education requirements.

 (A) A county auditor annually shall complete satisfactorily a minimum of eighteen hours of continuing education courses that the department establishes or causes to be established. Failure to complete satisfactorily these courses in any year results in the auditor forfeiting one thousand dollars of his state salary supplement for that year as provided in the annual general appropriations act. The content, cost, and dates of the courses must be determined by the department.

 (B) The department, for reasonable cause, may excuse a county auditor from attending these courses for any year. If excused, the auditor does not forfeit one thousand dollars of his state salary supplement for that year.

HISTORY: 1990 Act No. 444, Section 1; 1991 Act No. 123, Section 1; 2006 Act No. 386, Section 55.K, eff June 14, 2006.

**SECTION 12‑39‑20.** Oaths of auditors.

 Before entering on the duties of his office the auditor must take the oath prescribed by the Constitution.

HISTORY: 1962 Code Section 65‑1748; 1952 Code Section 65‑1748; 1942 Code Section 2698; 1932 Code Sections 2698, 4041, 4398; Civ. C. ‘22 Section 433; Civ. C. ‘12 Section 381; Civ. C. ‘02 Section 339; G. S. 221; R. S. 272; 1881 (17) 1007; 1897 (22) 439; 1913 (28) 43, 146; 1914 (28) 400, 617, 619, 627; 1915 (29) 420, 445, 447, 515, 532; 1916 (29) 754, 793, 798, 799, 804; 1917 (30) 120, 121; 1918 (30) 798; 1919 (31) 75, 127, 132, 164; 1920 (31) 1041; 1922 (32) 774; 1923 (33) 544; 1924 (33) 978; 1925 (34) 88, 121, 144; 1928 (35) 1148; 1929 (36) 1, 93, 210; 1930 (36) 1173; 1931 (37) 31, 66; 1933 (38) 152; 1934 (38) 1222, 1230, 1428; 1935 (39) 171; 1940 (41) 1748.

**SECTION 12‑39‑30.** Suspension and removal from office; designation of substitute.

 When any county auditor shall, during a recess of the Senate, be shown, by evidence satisfactory to the Governor, to be guilty of misconduct in office or crime or for any reason shall become incapable or legally disqualified to perform his duties, in any such case and in no other the Governor may suspend such officer and designate some suitable person to perform, temporarily, the duties of such office until the next meeting of the Senate and until the case shall be acted upon by the Senate. Such person so designated shall take the oath and give the bond required by law to be taken and given by the person duly appointed to fill such office and, in such case, the Governor shall, within ten days after the first day of the next meeting of the Senate, report to the Senate such suspension, with the evidence and reason for his action and the name of the person so designated to perform the duties of such office. If the Senate shall concur in such suspension and advise and consent to the removal of such officer, it shall so certify to the Governor, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension such officer so suspended shall forthwith resume the functions of his office and the powers of the person so performing its duties in his stead shall cease; but the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties of such office and not to the officer so suspended. If in any case the Governor shall become satisfied that such suspension was made on insufficient grounds, he may at any time before reporting such suspension to the Senate as provided in this section revoke such suspension and reinstate such officer in the performance of the duties of his office.

HISTORY: 1962 Code Section 65‑1749; 1952 Code Section 65‑1749; 1942 Code Section 2701; 1932 Code Section 2701; Civ. C. ‘22 Section 434; Civ. C. ‘12 Section 382; Civ. C. ‘02 Section 340; G. S. 222; R. S. 273; 1881 (17) 1007; 1897 (22) 439.

NOTES OF DECISIONS

Surety’s liability 1

1. Surety’s liability

Where a surety company issued a bond for a county treasurer’s term commencing April, 1913, and, on the expiration of that term treasurer succeeded himself, and filed a new oath of office, but surety company refused to issue another bond and no further premiums were paid, surety company was not liable for treasurer’s defaults occurring during subsequent terms of office, in view of Const. art. 1, S 11, and Civ.Code 1912, SS 382, 652, 661, 662 (See Code 1942, SS 2701, 3045, 3052, 3053), relating to the term of office of the treasurer and the form of his bond, notwithstanding that no subsequent bond was executed, and section 440 providing that the term of treasurer’s office is for two years and ‘until his successor is appointed and qualified.’. State v Mason, 126 SC 426, 120 SE 367 (1923).

**SECTION 12‑39‑40.** Deputy auditor.

 (A) A county auditor may appoint an employee in his office to be his deputy. The appointment must be filed with the State Treasurer and the governing body of that county. When the appointment is filed, the deputy may act for and on behalf of the county auditor when the auditor is incapacitated by reason of a physical or mental disability or during a temporary absence.

 (B) If there is a vacancy in the office of county auditor by reason of death, resignation, or disqualification, the appointed deputy shall carry out the duties of the office until a successor is appointed or elected and qualified.

HISTORY: 1962 Code Section 65‑1750; 1952 Code Section 65‑1750; 1942 Code Section 2700; 1941 (42) 36; 1958 (50) 1907; 2001 Act No. 89, Section 62B, eff July 20, 2001; 2015 Act No. 87 (S.379), Section 22, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 22, in (A), substituted “State Treasurer” for “Comptroller General”.

Library References

Counties 86.

Westlaw Topic No. 104.

C.J.S. Counties Section 194.

Attorney General’s Opinions

If the Governor does not make an appointment to fill a vacancy in the office of county auditor, section 12‑39‑40 provides a mechanism by which a deputy auditor may fulfill the duties of the auditor until a successor is chosen. S.C. Op.Atty.Gen. (July 13, 2012) 2012 WL 3057449.

Section 12‑39‑40 does not, in conveying the responsibilities of the county auditor to the deputy auditor in situations in which a vacancy in the office of the auditor exists, afford the auditor’s compensation to the deputy. However, the deputy would be entitled to such compensation, including the salary supplements provided to the auditor pursuant to section 8‑15‑65. Furthermore, such compensation shall be paid to the deputy auditor until such time as the elected auditor assumes the duties of the office. S.C. Op.Atty.Gen. (Sept. 22, 2006) 2006 WL 2849794.

**SECTION 12‑39‑50.** Auditor may administer oaths.

 Each county auditor is authorized to administer all oaths required to be taken by anyone in the assessment and return of property for taxation or in the performance of any duty enjoined upon county auditors by law.

HISTORY: 1962 Code Section 65‑1751; 1952 Code Section 65‑1751; 1942 Code Section 2730; 1932 Code Section 2730; Civ. C. ‘22 Section 462; Civ. C. ‘12 Section 410; Civ. C. ‘02 Section 369; G. S. 251; R. S. 303; 1881 (17) 1017.

Library References

Counties 84.

Westlaw Topic No. 104.

C.J.S. Counties Section 192.

**SECTION 12‑39‑60.** Time and place auditor shall receive returns and make assessments.

 The county auditor shall receive the returns and make the assessments provided for in this chapter within the time prescribed by law and for this purpose his office must be kept open to receive the returns of taxpayers from January first to April thirtieth of each year, except as otherwise provided, and the returns must be received throughout the period without penalty. He shall, for the purpose of assessing taxes, attend at a convenient point in each township or tax district as many days as may be necessary and for the remainder of the time allowed by law he must be and receive returns at the county seat. He or his assistant may give thirty days’ public notice of the days upon which he will be at the several places designated.

HISTORY: 1962 Code Section 65‑1752; 1952 Code Section 65‑1752; 1942 Code Sections 2702, 2703; 1932 Code Sections 2702, 2703; Civ. C. ‘22 Section 435; Civ. C. ‘12 Section 383; Civ. C. ‘02 Section 342; G. S. 225, 226; R. S. 275, 276; 1881 (17) 1008; 1917 (30) 68; 1920 (31) 1142; 1923 (33) 835; 1925 (34) 192; 1926 (34) 936, 981; 1929 (36) 279; 1938 (40) 1634; 1988 Act No. 330; 2015 Act No. 87 (S.379), Section 23, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 23, substituted “April thirtieth of each year” for “April fifteenth of each year”.

CROSS REFERENCES

Filing an amended return, see Section 12‑37‑975.

Library References

Taxation 2443.

Westlaw Topic No. 371.

C.J.S. Taxation Section 539.

**SECTION 12‑39‑70.** Classifications for purposes of appraising and assessing personal property.

 For the purpose of appraising and assessing personal property of businesses and other entities under the jurisdiction of the county auditor, the county auditor shall follow the classification of the most recent North American Industry Classification System Manual, as follows:

 (1) Sector 11, subsectors 111, 112, 113, 114, and 115, unless exempt;

 (2) Sector 52, subsectors 522, 523, 524, and 525; Sector 53, subsectors 531 and 533; and Sector 55, subsector 551, unless exempt;

 (3) Sector 51, subsector 512; Sector 54, subsector 541; Sector 61, subsector 611; Sector 62, subsectors 621, 622, 623, and 624; Sector 71, subsector 712; Sector 72, subsector 721; and Sector 81, subsectors 813 and 814, unless exempt.

HISTORY: 1994 Act No. 516, Section 25; 2003 Act No. 69, Section 3.UU, eff January 1, 2005.

Library References

Taxation 2176.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 89 to 90, 111, 117, 119, 122, 126 to 127, 129.

Attorney General’s Opinions

When property is under an “unknown” ownership, an entry to this effect in the tax title property description would satisfy the requirements of former Sections 30‑9‑50 and 30‑5‑35. 1986 Op Atty Gen, No 86‑40, p 125 (March 24, 1986) 1986 WL 192000.

Procedure where owner of property is not known. A county auditor is to list the ownership of real property as “unknown” in cases where the real owner of the property is not known, and the property is to be taxed accordingly. (Decided under former law.) 1968‑69 Op Atty Gen, No 2744, p 212 (October 10, 1969) 1969 WL 10741.

A county auditor is not required to accept the grantee in a quitclaim deed as the true owner of property for ad valorem tax purposes when the records fail to disclose or establish any interest in the said property that was conveyed by the grantor. (Decided under former law.) 1966‑67 Op Atty Gen, No 2379, p 228 (December 6, 1967) 1967 WL 8687.

**SECTION 12‑39‑120.** Auditor may enter and examine buildings (except dwellings) to ascertain value.

 For the purpose of enabling the auditor to determine the value of any taxable personal property and other improvements, he may enter and fully examine all buildings and structures (except dwellings), of whatever kind, which are not by law expressly exempt from taxation.

HISTORY: 1962 Code Section 65‑1764; 1952 Code Section 65‑1764; 1942 Code Section 2710; 1932 Code Section 2710; Civ. C. ‘22 Section 442; Civ. C. ‘12 Section 390; Civ. C. ‘02 Section 349; G. S. 231; R. S. 282; 1881 (17) 1010; 2015 Act No. 87 (S.379), Section 24, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 24, substituted “value of any taxable personal property” for “value of buildings”.

Library References

Taxation 2475.

Westlaw Topic No. 371.

C.J.S. Taxation Section 551.

Attorney General’s Opinions

Discussion of the auditor’s right to enter and examine buildings. S.C. Op.Atty.Gen. (October 16, 2014) 2014 WL 5439609.

**SECTION 12‑39‑140.** Time when tax books shall be completed.

 The auditor, on or before the thirtieth day of September of each year, shall make up and complete the tax books of the county, as required in Section 12‑39‑150.

HISTORY: 1962 Code Section 65‑1766; 1952 Code Section 65‑1766; 1942 Code Section 2712; 1932 Code Section 2712; Civ. C. ‘22 Section 444; Civ. C. ‘12 Section 392; Civ. C. ‘02 Sections 351, 357; G. S. 233; R. S. 284; 1881 (17) 1011; 1885 (19) 164; 1897 (22) 468; 1936 (39) 1612; 1958 (50) 1907; 1998 Act No. 370, Section 2.

Library References

Taxation 2577.

Westlaw Topic No. 371.

C.J.S. Taxation Section 663.

NOTES OF DECISIONS

In general 1

1. In general

The inference from this section [Code 1962 Section 65‑1766], Code 1962 Sections 65‑1776 and 65‑1779 is that it is the auditor’s duty to make appropriate changes when he prepares the next annual county duplicates. Osborne v. Vallentine (S.C. 1941) 196 S.C. 90, 12 S.E.2d 856.

**SECTION 12‑39‑150.** County duplicate list.

 The auditor shall enter into a book prepared for that purpose, in a manner as the department prescribes, a complete list or schedule of all taxable property in his county and the value of it as equalized. The list or schedule must be arranged so that each separate parcel of real property in each district, other than city, village, and town property, is contained in a line or lines opposite the names of the owners, arranged in numerical or alphabetical order, and so that each lot or parcel of real property in cities, villages, and towns is contained in a line or lines opposite the name of the owner of it, respectively, arranged in alphabetical order. The value of all personal property must be set down opposite the name of the owner of it, respectively, and, if listed by another person representing the owner, the name of that person and the character in which he acted. The list or schedule must be retained in his office and another made for the county treasurer, delivered to him annually on or before September thirtieth, annually, as his warrant for the collection of the taxes, assessments, and penalties charged on it. Each list must be denominated the county duplicate.

HISTORY: 1962 Code Section 65‑1768; 1952 Code Section 65‑1768; 1942 Code Section 2713; 1932 Code Section 2713; Civ. C. ‘22 Section 445; Civ. C. ‘12 Section 393; Civ. C. ‘02 Section 352; G. S. 234; R. S. 28; 1881 (17) 1010; 1885 (19) 164; 2006 Act No. 386, Section 55.L, eff June 14, 2006.

Library References

Taxation 2601.

Westlaw Topic No. 371.

C.J.S. Taxation Section 676.

Attorney General’s Opinions

A county auditor may present the tax roll duplicate to the country treasurer in electronic form; delivery is completed by making an electronic tax roll in the accounts receivable portion available to the treasurer, and the treasurer may use the electronic tax roll, if it is the auditor’s delivery of the county duplicate and if used to populate the tax bill, to collect the taxes due as his warrant for the collection of the taxes. S.C. Op.Atty.Gen. (September 23, 2016) 2016 WL 5820154.

How tax duplicates prepared. The county assessment rolls or tax duplicates should be prepared so as to reflect each individual parcel or lot of land and the value thereof. 1968‑69 Op Atty Gen, No 2637, p 44 (February 18, 1969) 1969 WL 10640.

NOTES OF DECISIONS

Remaindermen 1

1. Remaindermen

Under this and related statutes of this State it is well settled that the duty is on the life tenant to pay the taxes and that the interests of remaindermen are not affected by reason of the failure of the life tenant so to do; it is also well settled that no taxes may be assessed against the interests of remaindermen during the existence of the life estate. Campbell v. Williams (S.C. 1933) 171 S.C. 279, 172 S.E. 142.

**SECTION 12‑39‑160.** Report of property subject to special levy.

 The county auditor, when there is a special levy, may, when he has completed the tax duplicates, report to the county superintendent of education, the chairman of the county board of education, and the chairmen of the boards of trustees of the school districts, by school districts, the amount of taxable property subject to such levy.

HISTORY: 1962 Code Section 65‑1769; 1952 Code Section 65‑1769; 1942 Code Sections 2708, 5364; 1932 Code Sections 2708, 5393; Civ. C. ‘22 Sections 440, 2637; Civ. C. ‘12 Sections 388, 1769; Civ. C. ‘02 Sections 347, 1220; G. S. 229a; R. S. 280; 1890 (20) 718; 1896 (22) 165; 1958 (50) 1907; 2015 Act No. 87 (S.379), Section 25, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 25, substituted “may” for “shall”.

Library References

Taxation 2577.

Westlaw Topic No. 371.

C.J.S. Taxation Section 663.

**SECTION 12‑39‑170.** Rate of taxation shall be a decimal fraction, and not less than one tenth of a mill.

 The county auditors shall not be required to assess on the taxable property of their counties or of any town, city or incorporated village or school district therein, for any purpose, nor for all purposes added together, any rate of taxation containing or resulting in any fraction other than a decimal fraction, nor in any fraction less than one‑tenth of a mill; but if the sum required to be raised for any or all purposes results in a fraction less than one‑tenth of a mill such fraction shall be dropped.

HISTORY: 1962 Code Section 65‑1771; 1952 Code Section 65‑1771; 1942 Code Section 2716; 1932 Code Section 2716; Civ. C. ‘22 Section 448; Civ. C. ‘12 Section 396; Civ. C. ‘02 Section 355; G. S. 236; R. S. 288; 1881 (17) 1012; 1979 Act No. 126, Section 1.

Library References

Taxation 2428.

Westlaw Topic No. 371.

C.J.S. Taxation Section 482.

**SECTION 12‑39‑180.** County auditor shall determine sum to be levied on items of property; minimum assessment.

 A county auditor, after receiving statements of the rates and sums to be levied for the current year from the department and from other officers and authorities legally empowered to determine the rate or amount of taxes to be levied for the various purposes authorized by law, shall immediately proceed to determine the sums to be levied upon each tract and lot of real property and upon the amount of personal property, monies, and credits listed in his county in the name of each person. The assessment must be made equally on all real and personal property subject to the taxes and entered in one or more columns in the manner and form as the department shall prescribe. The department or the county auditor shall place a minimum assessment of at least twenty dollars on all personal property that generates a tax bill, unless a higher minimum assessment is otherwise required by law.

HISTORY: 1962 Code Section 65‑1772; 1952 Code Section 65‑1772; 1942 Code Section 2715; 1932 Code Section 2715; Civ. C. ‘22 Section 447; Civ. C. ‘12 Section 395; Civ. C. ‘02 Section 354; G. S. 235; R. S. 287; 1881 (17) 1011; 1958 (50) 1907; 1992 Act No. 361, Section 222; 1993 Act No. 181, Section 217; 1994 Act No. 490, Section 1; 2006 Act No. 386, Section 55.M, eff June 14, 2006.

Library References

Taxation 2444.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 503, 513 to 515, 520 to 524, 540.

NOTES OF DECISIONS

In general 1

Authority of auditor 2

1. In general

Assessment of taxes cannot be made until the county auditor receives instructions from the Comptroller General, and such instructions cannot be given until the State appropriation bills and the county supply bill for the year have become acts of the legislature. Town of Myrtle Beach v. Holliday (S.C. 1943) 203 S.C. 25, 26 S.E.2d 12.

2. Authority of auditor

Authority to set property tax rate belongs to county governing body, not county auditor. Lee County v. Stevens (S.C. 1982) 277 S.C. 421, 289 S.E.2d 155.

**SECTION 12‑39‑190.** Manner of entering taxes on duplicate.

 The county auditor shall enter the taxes on the duplicate retained in his own office. On the duplicate for the county treasurer, he shall enter the taxes against each parcel of real and personal property on one or more lines, opposite the name of the owner or owners.

HISTORY: 1962 Code Section 65‑1773; 1952 Code Section 65‑1773; 1942 Code Section 2717; 1932 Code Section 2717; Civ. C. ‘22 Section 449; Civ. C. ‘12 Section 397; Civ. C. ‘02 Section 356; G. S. 237; R. S. 289; 1881 (17) 1012; 2006 Act No. 386, Section 55.N, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 26, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 26, substituted “retained in his own office” for “retained in his own office in the number of columns as the department directs”.

Library References

Taxation 2601.

Westlaw Topic No. 371.

C.J.S. Taxation Section 676.

**SECTION 12‑39‑200.** Forms for county duplicates.

 In all respects except as otherwise prescribed by Section 12‑39‑190, the department may prescribe the types of acceptable format for county duplicates as may seem most convenient for the public and county auditors.

HISTORY: 1962 Code Section 65‑1774; 1952 Code Section 65‑1774; 1942 Code Section 2717; 1932 Code Section 2717; Civ. C. ‘22 Section 449; Civ. C. ‘12 Section 397; Civ. C. ‘02 Section 356; G. S. 237; R. S. 289; 1881 (17) 1012; 2006 Act No. 386, Section 55.O, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 27, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 27, substituted “the types of acceptable format” for “forms”, and deleted “shall conform to those forms” from the end.

Library References

Taxation 2601.

Westlaw Topic No. 371.

C.J.S. Taxation Section 676.

**SECTION 12‑39‑210.** Auditor’s returns of omitted personal property; penalty.

 The auditor shall, at any time after making his return, if he ascertain that any personal property in his county has not been listed, list it and make return thereof, with the valuation thereof as fixed by the owner or himself and the name of the owner or person to whom it is taxable, and he shall charge it on the duplicate for taxation, adding ten per cent to the value as returned as penalty.

HISTORY: 1962 Code Section 65‑1775; 1952 Code Section 65‑1775; 1942 Code Section 2706; 1932 Code Section 2706; Civ. C. ‘22 Section 438; Civ. C. ‘12 Section 386; Civ. C. ‘02 Section 345; G. S. 229; R. S. 279; 1881 (17) 1009; 1928 (35) 1245.

Library References

Taxation 2469, 3214.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544, 547 to 549, 1721 to 1723, 1725 to 1727.

Attorney General’s Opinions

Erroneous exemption for prior years. A manufacturer that has erroneously received an exemption granted by Code 1962 Section 65‑1545 for prior years is subject to taxation on the basis of the property so erroneously exempt. 1968‑69 Op Atty Gen, No 2663, p 80 (April 1, 1969) 1969 WL 10665.

Tax Commission 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.

**SECTION 12‑39‑220.** Property omitted from duplicate; appraisal and notification; limitation of back taxes.

 If the county assessor shall at any time discover that any real estate or new structure, addition, or improvement duly returned and appraised for taxation, has been omitted from the duplicate, he shall immediately appraise it and notify the auditor. Upon receiving notification from the assessor, the auditor shall charge it on the duplicate with the taxes of the current year and the simple taxes of each preceding year it may have escaped taxation subject to the limitations contained in this section. And if the owner of any real estate or new structure, addition, or improvement thereon, subject to taxation, has not returned or reported it for taxation, according to the requirements of this chapter, and it has not been appraised for taxation, the assessor shall, upon discovery thereof, appraise it and, upon notification from the assessor, the auditor shall charge it upon the duplicate, with the taxes of the then current year and the taxes of each preceding year it may have escaped taxation, and all applicable penalties upon such taxes of preceding years subject to the limitations contained in this section. The adjustments determined by the assessor may not extend back more than three prior years from the year the adjustments are determined but in no event back to a prior year before the year the addition on improvement was made. The term “improvement” for purposes of this section means a change to any real estate or structure which betters the value thereof while not constituting regular maintenance.

HISTORY: 1962 Code Section 65‑1776; 1952 Code Section 65‑1776; 1942 Code Section 2718; 1932 Code Section 2718; Civ. C. ‘22 Section 450; Civ. C. ‘12 Section 398; Civ. C. ‘02 Section 357; G. S. 238; R. S. 290; 1881 (17) 1012; 2015 Act No. 87 (S.379), Section 28, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 28, rewrote the section.

Library References

Taxation 2568, 2569, 2602.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 607, 672, 759, 765 to 768.

Attorney General’s Opinions

Where property is listed on tax duplicate and tax paid thereon, subsequent and innocent purchaser cannot be charged with tax on addition of omitted improvements; tax due on omitted improvements is liability of owner of property on tax date for each year of omission. 1985 Op Atty Gen, No. 85‑117, p 324 (October 16, 1985) 1985 WL 193854.

Real property omitted from the county duplicate is to be entered on the duplicate for the current year in accordance with Section 12‑39‑220; however, no penalty is to be added for such omission. 1979 Op Atty Gen, No 79‑50, p 67 (March 13, 1979) 1979 WL 29056.

Under the provisions of Section 12‑39‑220, no penalty is to be added to property duly returned for taxation and not listed on the duplicate; however, a penalty is to be added when not returned and not listed. 1978 Op Atty Gen, No 78‑76, p 106 (May 2, 1978) 1978 WL 22557.

This section [Code 1962 Section 65‑1776] requires county auditor to charge real estate taxes for preceding years when it is discovered that real estate has escaped taxation. 1970‑71 Op Atty Gen, No 3122, p 72 (April 30, 1971) 1971 WL 17496.

Where land is discovered to have escaped taxation, the county auditor should place the same upon the tax rolls with applicable penalty as provided for in this section [Code 1962 Section 65‑1776]. 1969‑70 Op Atty Gen, No 2828, p 45 (February 9, 1970) 1970 WL 12124.

Erroneous exemption for prior years. A manufacturer that has erroneously received an exemption granted by Code 1962 Section 65‑1545 for prior years is subject to taxation on the basis of the property so erroneously exempt. 1968‑69 Op Atty Gen, No 2663, p 80 (April 1, 1969) 1969 WL 10665.

Tax Commission 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.

NOTES OF DECISIONS

In general 1

Review 2

1. In general

The purpose of statute allowing assessment of real estate omitted from the duplicate is to collect taxes that inadvertently escaped taxation. Mitul Enterprises, L.P. v. Beaufort County Assessor (S.C.App. 2014) 410 S.C. 430, 764 S.E.2d 720, rehearing denied, certiorari denied. Taxation 2569

Improvements to hotel property were properly assessed as omitted property, where hotel was constructed on property and assessed a value for tax purposes, but the additional taxes that should have flowed from that increase in value were inadvertently not charged because of a software error. Mitul Enterprises, L.P. v. Beaufort County Assessor (S.C.App. 2014) 410 S.C. 430, 764 S.E.2d 720, rehearing denied, certiorari denied. Taxation 2569

County assessor was the appropriate party under statute regarding taxation of property omitted from tax rolls to levy additional tax on hotel property; although statute regarding assessment of omitted property referred to county auditor rather than assessor, the language of the statute was obsolete in that the duties it referred to currently fell under the authority of the county assessor. Mitul Enterprises, L.P. v. Beaufort County Assessor (S.C.App. 2014) 410 S.C. 430, 764 S.E.2d 720, rehearing denied, certiorari denied. Taxation 2569

Property owner was properly charged in 1974 with taxes for preceding 2 years where trial court found subject property escaped taxation in 1972 and 1973 due to omission of improvement from duplicate. Columbia Developers, Inc. v. Elliott (S.C. 1977) 269 S.C. 486, 238 S.E.2d 169.

The inference from Code 1962 Sections 65‑1766, 65‑1779 and this section [Code 1962 Section 65‑1776] is that it is the auditor’s duty to make appropriate changes when he prepares the next annual county duplicates. Osborne v. Vallentine (S.C. 1941) 196 S.C. 90, 12 S.E.2d 856.

2. Review

Taxpayer was barred from relief due to failure to exhaust administrative remedies where, after notice of back taxes owed for prior years but not collected due to error on tax rolls, taxpayer did not attempt to challenge proceedings by means of appropriate administrative remedies, but instead paid taxes under protest and brought suit for recovery. Columbia Developers, Inc. v. Elliott (S.C. 1977) 269 S.C. 486, 238 S.E.2d 169.

**SECTION 12‑39‑250.** Duty to correct assessments and other errors; duplicates; manner of effecting corrections; adjustments in valuation and assessment for fire damage.

 (A) At any time before the tax is paid and upon order of the assessor or Board of Appeals, the county auditor shall correct upon the duplicate for any tax year the assessment of real property on which the valuation of the real property was so excessive as to constitute an invalid assessment. At any time prior to payment of the tax the auditor shall also correct upon the duplicate for any tax year any errors that may be discovered that were made by county or state officers. At any time during the current tax year and before payment of the tax the auditor further shall correct other errors that may appear in the duplicate. At any time before the tax is paid the auditor shall also correct other errors in the duplicate when such errors invalidate or make void the collection of the tax reflected by reason of such error. If the correction results in a reduction or withdrawal of the taxes assessed or levied, the correction shall be in the form of an abatement and a record of such correction and the reasons therefor shall be maintained in an abatement book. When any personal or real property has been entered for taxation in the wrong locality, the auditor shall correct the error at any time prior to payment of the tax and charge such tax in the correct locality. Any corrections made in the duplicate by the auditor shall be entered on both the auditor’s and treasurer’s duplicate, except that in the case of a reduction of any assessment or tax, the auditor may furnish the treasurer with a certificate of reduction.

 (B) Notwithstanding any other provision of law, the county tax assessor or the County Board of Assessment Appeals, upon application of the taxpayer, must order the County Auditor to make appropriate adjustments in the valuation and assessment of any real property and improvements which have sustained damage as a result of fire provided that the application for correction of the assessment is made prior to payment of the tax.

HISTORY: 1962 Code Section 65‑1779; 1952 Code Section 65‑1779; 1942 Code Section 2727; 1932 Code Section 2727; Civ. C. ‘22 Section 459; Civ. C. ‘12 Section 407; Civ. C. ‘02 Section 366; G. S. 247; R. S. 299, 300; 1881 (17) 1015; 1931 (37) 3; 1934 (38) 1222; 1982 Act No. 287, Section 1; 1997 Act No. 146, Section 2.

Library References

Taxation 2567.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 577 to 578, 601, 606, 613, 759, 762 to 764, 769 to 775.

Attorney General’s Opinions

County governing body is without authority to abate or waive penalty; penalty that has been incorrectly levied may be abated by county auditor prior to payment under Section 12‑39‑250. 1990 Op Atty Gen, No 90‑6 (January 15, 1990) 1990 WL 482394.

A taxpayer may request a refund of taxes paid to a county upon property not situated or located within its boundary. (Decided under former law.) 1970‑71 Op Atty Gen, No 3122, p 72 (April 30, 1971) 1971 WL 17496.

Tax Commission does not have statutory authority to increase a valuation of property after the assessment rolls are completed and handed to the county treasurer although the Commission may have had the duty of valuing such property prior to that time. 1967‑68 Op Atty Gen, No 2528, p 218 (October 18, 1968) 1968 WL 8923.

Auditors may refund illegally collected license fees for mobile homes. (Decided under former Code 1962 Section 65‑2654.) 1967‑68 Op Atty Gen, No 2445, p 103 (April 18, 1968) 1968 WL 8847.

This section [Code 1962 Section 65‑1779] prescribes no specific method to reflect corrections made by the county auditor on his and treasurer’s duplicate, but it must be presumed that any method that clearly represents the correction would be satisfactory. 1964‑65 Op Atty Gen, No 1784, p 17 (January 19, 1965) 1965 WL 7951.

If a taxpayer has paid excess taxes due to property being returned in wrong school district, though the taxes were not paid under protest, it was an erroneous assessment and collection, and the taxpayer is entitled to a reimbursement in the amount of the excess paid for the years involved. 1962‑63 Op Atty Gen, No 1596, p 170 (December 3, 1963) 1963 WL 8341.

Property returned in wrong school district. When, through a bona fide error or mistake, property has been returned for taxation in the wrong school district, the tax officials should, when the error is discovered, prepare delinquent entries for the proper school district and permit the property owner to pay any tax above that previously paid for all of the years involved. 1962‑63 Op Atty Gen, No 1596 p 170 (December 3, 1963) 1963 WL 8341.

**SECTION 12‑39‑260.** Record of sales or conveyances and resulting changes in duplicates; endorsement of deeds by auditor; fees.

 (A) Each county auditor may keep a record of all sales or conveyances of real property made in the county, in which he shall enter, in columns, the names of the purchaser and seller, the quantity of land conveyed and the location and price of such land, and from such record he shall correct the county duplicates annually. For the purpose of carrying out this provision, the clerk of courts or register of deeds of each county shall have the endorsement of the county auditor on each deed of conveyance for real property that the conveyance has been entered in his office before such deed can be placed on record in the recording office, and the county auditor shall be entitled to a fee of twenty‑five cents, for his own use, for making such entry and endorsement.

 (B) The Department of Revenue may approve other means and methods of processing and accounting for the accurate and timely recording of sales, transfers, and other conveyances of real property.

HISTORY: 1962 Code Section 65‑1780; 1952 Code Section 65‑1780; 1942 Code Section 2727; 1932 Code Section 2727; Civ. C. ‘22 Section 459; Civ. C. ‘12 Section 407; Civ. C. ‘02 Section 366; G. S. 247; R. S. 299, 300; 1881 (17) 1015; 1931 (37) 3; 1934 (38) 1222; 1996 Act No. 431, Section 11; 2015 Act No. 87 (S.379), Section 29, eff June 11, 2015.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

Effect of Amendment

2015 Act No. 87, Section 29, substituted “may keep” for “shall keep”.

CROSS REFERENCES

Auditor’s endorsement required before recordation, see Section 30‑5‑80.

Library References

Records 6, 9.

Westlaw Topic No. 326.

C.J.S. Records Sections 8, 11 to 15, 19 to 20.

C.J.S. Registration of Land Titles Sections 1 to 66.

Attorney General’s Opinions

Discussion of the auditor’s stamp on recorded deeds. S.C. Op.Atty.Gen. (July 13, 2005) 2005 WL 1983361.

NOTES OF DECISIONS

Presumptions 1

1. Presumptions

Presumption is that auditor did his duty in regard to correcting tax duplicate. Smith v. Cox (S.C. 1909) 83 S.C. 1, 65 S.E. 222.

**SECTION 12‑39‑270.** “Abatement book”; contents and use.

 The county auditor shall keep as a permanent record in his office a book to be known as the “Abatement Book”, in which the county auditor enters separately each abatement of taxes granted and allowed. The abatement book must be kept so as to show in each case, under appropriate columns, the number of the page and the number of the line of the tax duplicate on which the item abated appears, the name of the taxpayer, the amount and kind of tax charged on the duplicate and for what year, the amount abated and date of abatement, in each case. If the tax is on property, the entry must include a description of property and the reason the abatement was applied for and allowed. After the abatement papers are entered, they must be filed in the auditor’s office by consecutive numbering of each and the number on the abatement paper must be entered in the abatement book in which the paper is entered for easy reference. The abatement book must be kept by townships and summed up separately for each fiscal year, with a recapitulation showing at the end of the year the amount of state, county, school, poll, and other tax abated during the fiscal year in the whole county.

HISTORY: 1962 Code Section 65‑1784; 1952 Code Section 65‑1784; 1942 Code Section 2734; 1932 Code Section 2734; Civ. C. ‘22 Section 466; Civ. C. ‘12 Section 414; Civ. C. ‘02 Section 373; 1900 (23) 307; 2006 Act No. 386, Section 55.P, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 30, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 30, deleted the last sentence, relating to the procedure for settlement between auditor and treasurer.

Library References

Taxation 2577.

Westlaw Topic No. 371.

C.J.S. Taxation Section 663.

**SECTION 12‑39‑280.** Auditor shall permit inspection and use of his books.

 After the county auditor has completed his assessment he shall permit any person authorized to assess or collect municipal taxes for any town or city to inspect and use his books, without charge, for the purpose of taking therefrom the assessed valuation of property within the limits of such city or town.

HISTORY: 1962 Code Section 65‑1785; 1952 Code Section 65‑1785; 1942 Code Section 2735; 1932 Code Section 2735; Civ. C. ‘22 Section 467; Civ. C. ‘12 Section 415; Civ. C. ‘02 Section 374; 1896 (22) 59.

Library References

Taxation 2609.

Westlaw Topic No. 371.

C.J.S. Taxation Section 675.

**SECTION 12‑39‑310.** Duty to respond to questions regarding value of real estate and valuation of personal property.

 A county auditor shall respond to all inquiries of him by the department regarding the value of real estate of the county and the valuations of the different classes of personal property for taxation and other matters the department considers of interest to the public or of value to it in the discharge of the duties of the department. These responses must be made in the form and must contain the details the department prescribes.

HISTORY: 1962 Code Section 65‑1792; 1952 Code Section 65‑1792; 1942 Code Section 2729; 1932 Code Section 2729; Civ. C. ‘22 Section 461; Civ. C. ‘12 Section 409; Civ. C. ‘02 Section 368; G. S. 250; R. S. 302; 1881 (17) 1017; 1998 Act No. 370, Section 3; 2006 Act No. 386, Section 55.Q, eff June 14, 2006.

Library References

Counties 91.

Westlaw Topic No. 104.

C.J.S. Counties Section 202.

**SECTION 12‑39‑340.** Auditor shall ascertain that taxable personal property is properly listed and assessed.

 In addition to other duties and responsibilities provided by law, the county auditor shall have the responsibility of ascertaining that all personal property subject to the ad valorem tax by the Constitution or general law is listed and assessed according to manuals, guidelines and rules and regulations promulgated by the department.

HISTORY: 1975 (59) 248.

Library References

Counties 91.

Westlaw Topic No. 104.

C.J.S. Counties Section 202.

Attorney General’s Opinions

A county auditor may examine a person regarding personal property to be returned, or property that is incorrectly returned, and any documents and records relating to information required on the return by regulation of the South Carolina Tax Commission. 1983 Op Atty Gen, No 83‑73, p 115 (September 21, 1983) 1983 WL 142742.

Act 208, Acts of 1975 [Article 3 of Chapter 43 of Title 12 and Sections 12‑37‑90, 12‑37‑100, 12‑37‑970, 12‑39‑340 and 12‑39‑350 of the 1976 Code], is effective for the 1976 tax year except where otherwise specifically provided. 1974‑1975 Op Atty Gen, No 4127, p 196 (Sept. 22, 1975) 1975 WL 22423.

**SECTION 12‑39‑350.** Adoption of valuations of assessor.

 The auditor shall adopt valuations of the assessor and the department. If the auditor discovers that any personal property required by law to be assessed by the department has been omitted, he shall notify the department that the personal property has been omitted and the department shall be required to appraise and assess the omitted personal property.

HISTORY: 1975 (59) 248; 1976 Act No. 618, Section 9.

Library References

Taxation 2568, 2569.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 607, 759, 765 to 768.

**SECTION 12‑39‑360.** Extension of date for filing returns and payment of property taxes.

 A county may extend the date for filing returns and the payment of property taxes for persons serving with the United States Armed Forces or National Guard in or near a hazard duty zone.

HISTORY: 2003 Act No. 9, Section 1, eff April 21, 2003.

Library References

Taxation 2462, 2760.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549, 1023.