CHAPTER 53

Tax Collection by Department of Revenue

**SECTION 12‑53‑10.** Certain powers and duties of sheriffs or tax collectors imposed on Department of Revenue.

 All the powers and duties now imposed or conferred by law upon sheriffs or tax collectors of any county in this State with respect to the collection of any amounts due the State Department of Revenue, are hereby imposed or conferred upon the department, or its duly authorized representatives. Such portions of the law as have to do with the collection of unpaid taxes, penalties, interest, or costs, and the attachment, levy, and sale of properties for the purpose of enforcing the payment of such amounts which may be due the department, are hereby imposed or conferred upon the department, or its duly authorized representatives. The department, or its duly authorized representatives, shall in all respects and with like effect proceed upon the property and rights to property, both real and personal, as is now provided by law with respect to sheriffs or tax collectors.

HISTORY: 1962 Code Section 65‑2831; 1954 (48) 1566; 1993 Act No. 181, Section 232.

CROSS REFERENCES

Courts enforcing tax liabilities imposed by certain other states, see Section 12‑49‑90.

Official receipts for money collected, see Section 11‑1‑10.

Attorney General’s Opinions

The tax on property assessed by the South Carolina Tax Commission is collected in the same manner as the tax on other property. There is no difference in collection procedures simply because the property was assessed by the South Carolina Tax Commission. 1979 Op Atty Gen, No 79‑49, p 66 (March 13, 1979) 1979 WL 29055.

**SECTION 12‑53‑20.** Levy on and seizure of intangibles; notice to taxpayer.

 Notwithstanding any other provision of law, the department, or its duly authorized representatives, may attach, levy upon, or seize bank deposits and all other choses in action, except for salaries and wages, on property incapable of manual levy or delivery, hereinafter called intangible, belonging, owing, or to become due to any taxpayer, subject to any provisions of any tax or license law of which the administration, enforcement, and collection is imposed upon the department. The person owning such intangible, matured or unmatured, or having the same in possession or control, shall become liable for all sums due by the taxpayer to the extent of the amount of the intangible belonging, owing, or to become due to the taxpayer, subject to the setoff of any matured or unmatured indebtedness of a taxpayer to said person. To effect such attachment or levy, the department, or its duly authorized representative, shall serve, or cause to be served upon the taxpayer and upon such person, notice of such attachment and levy, which notice may be served by any authorized representative of the department, or by any officer having authority to serve summonses.

HISTORY: 1962 Code Section 65‑2832; 1954 (48) 1566.

Library References

Taxation 2846.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1167 to 1169.

Attorney General’s Opinions

The Commission may levy upon a joint bank account to collect taxes of a joint depositor if the depositor can make demands individually for the funds in the account. 1974‑75 Op Atty Gen, No 4106, p 184 (September 4, 1975) 1975 WL 22402.

**SECTION 12‑53‑30.** Preservation of seized property; expenses of seizure and sale.

 The department, or its duly authorized representative, where personal property is levied upon and seized in order to enforce payment of amounts due the department, including costs, shall take such steps as may be necessary to protect and preserve the property so seized. The sheriff of each county is hereby authorized and directed to provide appropriate and proper space to protect any personal property so seized. In the event that storage space is not available to the sheriff, the department is hereby authorized and directed to rent such space as may be necessary to protect the seized property until such property may be sold or redeemed. The cost of such storage, advertising, sale, and any other direct costs in connection with such seizure and sale shall be paid by the State Treasurer on proper warrant from the department from any funds arising out of any taxes with respect to which the department is charged with the administration, enforcement and collection.

HISTORY: 1962 Code Section 65‑2833; 1954 (48) 1566.

Library References

Taxation 2846.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1167 to 1169.

**SECTION 12‑53‑40.** Costs and fees.

 Notwithstanding another provision of law, there is added as costs to each warrant or tax execution collected, served, or recorded by a duly authorized representative of the department an amount equivalent to five percent of the total of the warrant or tax execution or the sum of three dollars, whichever is greater and, in addition, a sum equal to the fee provided in Section 8‑21‑310(20). These costs, together with the costs of storage, advertising, and sale, must be deducted from proceeds of sale before payment of prior liens or claims. Fees charged by clerks of court for the recording and satisfaction of warrants for distraint or tax executions issued by the department must be paid by the State Treasurer on proper warrant from the department from funds appropriated by the General Assembly.

HISTORY: 1962 Code Section 65‑2834; 1954 (48) 1566; 1990 Act No. 599, Section 2; 2003 Act No. 69, Section 3.X, eff June 18, 2003.

Library References

Taxation 2847.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1170 to 1173.

Attorney General’s Opinions

The fees and costs the Department of Revenue may impose for the recording of warrants of distraint or tax liens are limited to the amounts stated in Section 12‑53‑40. S.C. Op.Atty.Gen. (April 5, 2013) 2013 WL 1695518.

**SECTION 12‑53‑45.** Electronic filing of documents relating to enforced collection of taxes.

 When filing documents relating to the enforced collection of taxes due this State with county clerks of court and registers of deeds, the department shall file those documents electronically if the clerk of court or register of deeds accepts electronic filings.

HISTORY: 2012 Act No. 135, Section 1, eff July 1, 2012.

Attorney General’s Opinions

The regulations promulgated by the Secretary of State to implement the Uniform Real Property Electronic Recording Act should be followed by both the Department of Revenue and registers of deeds and clerks of court who accept electronic filings when determining the appropriate procedure for transmitting and processing state tax liens for electronic filing pursuant to this section. S.C. Op.Atty.Gen. (August 18, 2015) 2015 WL 5074335.

The fees and costs the Department of Revenue may impose for the recording of warrants of distraint or tax liens are limited to the amounts stated in Section 12‑53‑40. S.C. Op.Atty.Gen. (April 5, 2013) 2013 WL 1695518.

**SECTION 12‑53‑50.** Disposition of proceeds of sales and collections.

 The department shall, after deducting the costs and expenses above referred to, remit to the clerk of court of the county the amount of prior liens or claims, if any, against the property seized and sold. Such remittance shall be made by appropriate voucher by the State Treasurer issued upon proper warrant of the department. The department shall deposit the total proceeds of seizure and sale or collections under warrants or tax executions to the credit of the appropriate account with the State Treasurer.

HISTORY: 1962 Code Section 65‑2835; 1954 (48) 1566.

Library References

Taxation 2847.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1170 to 1173.

**SECTION 12‑53‑60.** Provisions are cumulative.

 The provisions of this article shall be complementary to and in addition to any other provision of law.

HISTORY: 1962 Code Section 65‑2836; 1954 (48) 1566.