

SC INFORMATION LETTER #99-15

SUBJECT: Agreement Between the Comptroller General and the Department of Revenue Executed

DATE: August 18, 1999

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-4-520 (Supp. 1998)
S.C. Code Ann. Section 12-39-320 (Supp. 1998)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1998)
SC Revenue Procedure #97-8

SCOPE: An Information Letter is a document issued for the purpose of disseminating general information or information concerning an administrative pronouncement.

Information Letters issued to disseminate general information have no precedential value and do not represent the official position of the Department. Information Letters designated as administrative pronouncements are official advisory opinions of the Department.

The Comptroller General's Office and the South Carolina Department of Revenue have entered into an agreement that sets forth each agencies' duties as they relate to issues involving ad valorem property taxes and fees in lieu of property taxes. The agreement clarifies the responsibilities of each of the agencies, establishes a set of agreed procedures for both agencies to follow in administering their respective areas of responsibility, and is designed to serve as a guide for county officials to use in interacting with these two agencies. The goal of the agreement is to provide consistent, accurate, and timely advice to state and local officials who depend upon the information in order to perform their duties and to deal with the public in a consistent manner. A copy of this agreement is attached to this information letter.

Taxpayers that have specific questions with regard to those matters set forth in the agreement that are under the jurisdiction of the Comptroller General should address their questions to the Comptroller General's Office, while those matters under the jurisdiction of the Department of Revenue should be addressed to the Department of Revenue.

Purpose

This document seeks to clarify the respective jurisdictions of the Comptroller General and the Department of Revenue, to establish a set of agreed upon procedures for these two agencies to follow in administering their respective areas of responsibility, and to establish a guide for county officials to use in interacting with these two agencies. These guides and procedures are not intended to be all inclusive and are intended to cover only those areas where doubt has existed between the two agencies and with the local officials. The further purpose of this agreement is to improve the services of these two agencies to the public and to the local county officials who are subject to supervision by these two agencies. Our combined goal is to provide consistent, accurate and timely advice to those officials who depend upon this information in order to perform their duties pursuant to law and to be able to deal with the public in a consistent manner.

Department of Revenue and Comptroller General
Jurisdiction over Functions

Generally speaking, the Department of Revenue (Department or DOR) has jurisdiction over the duties involved with the proper assessment of property for tax purposes and the proper calculation of property taxes, while the Comptroller General supervises the collection of taxes and penalties, and administers the Homestead Tax Exemption Program, including the exemption from school operations found in Section 12-37-251, except for those functions specifically reserved to the DOR.

Section 12-4-520

This section outlines in general terms the area of responsibility granted to the DOR by the General Assembly. Subsections (1) and (2) of that section grant DOR jurisdiction over assessors and county boards of tax appeal. Subsection (3) grants DOR jurisdiction over the assessment and equalization functions. It includes jurisdiction over the “taxation” of property and DOR is granted the power to investigate and take necessary action to insure that those functions are carried out properly. Subsection (4) reinforces the nature of this authority. It states that the DOR, as often as annually, shall examine all the books, papers and accounts of assessors, auditors, treasurers and tax collectors, with a view to protecting the interests of the state, counties, and other political subdivisions and rendering these offices aid or instruction.

Section 12-39-320

Historically, the Comptroller General has been involved in the property tax collection process. The duties of the Comptroller, in this area, are summarized in S.C. Code Ann. Section 12-39-320, which provides:

The Comptroller General shall, as often as once a year, either in person or by some authorized agent of his office examine all the books, papers and accounts pertaining to the offices of the auditors and the treasurers of the respective counties, with a view to protecting the interests of the State and rendering such officers such aid or instruction as, in the discharge of their several duties, they may need to make their service the more efficient.

The Comptroller General has traditionally assisted the county treasurers as to the proper disbursement of school funds, debt service, bond proceeds, proper borrowing, computer security, separation of powers, and similar functions. Section 12-1-30¹ historically provided some authority for the Comptroller General to aid the county treasurers in those areas. Since the same language that was codified in Section 12-1-30 also appears in Section 12-39-320, this latter Section now provides this authority.

“Gray” Areas

There are “gray” areas as to when the assessment of property for tax purposes and the proper calculation of property taxes ends and the collection jurisdiction begins. These areas which are not clearly assigned by the statutes are divided by this agreement between our two agencies.

“Other”

If a question arises, and it is unclear under the terms of this agreement, or by statute, as to whom the question should be directed, the following applies: (1) if the question involves an assessor or the functions of the assessor, the question should be referred to the DOR; (2) if the question involves the duties of the auditor, treasurer, or tax collector it should be referred to the Comptroller General.

¹Section 12-1-30, prior to its repeal, provided:

The Comptroller General shall, as often as once a year, either in person or by some authorized agent of his office examine all the books, papers and accounts pertaining to the offices of the auditors and treasurers of the respective counties, with a view to protecting the interests of the State and rendering such officers such aid or instruction as, in the discharge of their several duties, they may need to make their service the more efficient.

Assignment of Jurisdiction
By Function

I. Questions and Complaints.

The agency with jurisdiction over the function complained of or questioned would address the complaint or answer the question received from a county official.

II. Treasurers' Functions Under the supervision of the Comptroller General:

- A. Media of payment of taxes. Section 12-45-90.
 - B. Apportionment of taxes and costs. Sections 12-45-140 through 170.
 - C. Time for the payment or collection of taxes. Sections 12-45-70 and 12-4-520(6).
 - D. Collections and executions. Section 12-45-180.
 - E. Annual tax reporting. Section 12-45-300.
 - F. Treasurers' and tax collectors' delegation of duty to seize property. Section 12-45-400.
 - G. Partial and installment payments and application of payments of delinquent taxpayers. Sections 12-45-410 and 12-45-75.
 - H. Enforced collections. Generally Chapters 49 and 51 of Title 12.
 - I. Penalties and interest, except for those instances under DOR responsibility. See IV.C, below.
- NOTE:** The Comptroller General has compiled a procedures manual for tax collectors which constitutes its official directive for the above statutes.
- J. Homestead tax exemptions. Section 12-37-250 through 12-37-295, including the exemption from school operations in Section 12-37-251, except for those functions in Section 12-37-251 specifically reserved to the Department of Revenue.
 - K. Business inventory tax and manufacturers' depreciation reimbursements. Section 12-37-450 and Section 12-37-935.
 - L. The collection of Motor Vehicle Taxes, other than Motor Carrier taxes. The Department of Revenue is charged with all aspects of the collection of motor carrier property taxes. Sections 12-37-2810 through 2880.
 - M. County treasurers' continuing education requirements. Section 12-45-15.
 - N. Forfeited Land Commission. Section 12-59-10.

O. Historically, the Comptroller General has given assistance under certain circumstances in the following areas. to the extent the Comptroller General's authority was based on Section 12-1-30, which has been repealed, it is now based on Section 12-39-320. The Comptroller General remains ready to discuss the following items should problems arise:

- (1) Establishment of the proper level of sinking funds for bond issues;
- (2) Disbursement from sinking funds;
- (3) Establishment of proper levy for debt service (auditor);
- (4) Establishment and disbursements from bond proceeds accounts;
- (5) Proper investment of public funds;
- (6) Proper disbursement of county and school funds;
- (7) Proper distribution of interest earnings;
- (8) Proper computer security as to the separation of duties from county auditor and tax collector (limited access).
- (9) Any other disbursement, to include tax increment financing, but excluding any fee-in-lieu of a property tax

III. Duties of the County Auditors Under the Comptroller General.

- A. Continuing education requirements. Section 12-39-15.
- B. Completion of county tax books and opening date. Sections 12-39-140 and 12-39-150.
- C. Compiling the duplicate and the form of the duplicate. Sections 12-39-150, 190, 200.
- D. Nulla Bona actions. Section 12-49-85.
- E. The Homestead Tax Exemption Program (Section 12-37-250 *et seq.*, to include Section 12-37-251, except for those functions in Section 12-37-251 reserved to the Department of Revenue);
- F. Annual tax reports. Sections 12-39-140 and 12-45-300.
- G. Forfeited Land Commission. Section 12-51-55.

IV. Areas under the jurisdiction of DOR.

- A. Refunds, except for Homestead Exemption, manufacturers' depreciation reimbursement, and exemption from school operations (Sections 12-37-250, 12-37-935, and 12-37-251).
- B. Abatements (except for nulla bona actions under Section 12-49-85 and the Homestead Exemption under Section 12-37-250 and the exemption from school operations under 12-37-251).

- C. Penalties and interest where DOR has assessment jurisdiction, other than penalties and interest for late payments collected by the counties. (Section 12-37-250 and 12-37-251).
- D. Motor Carrier tax collections. (Section 12-37-2810 through 12-37-2880.)
- E. Determination of the 80% for property under appeal. (Section 12-60-2550.)
- F. Millage and assessment ratios
- G. Tax Bills and Notices
- H. Exemptions, other than the Homestead Exemption and the exemption from school operations (Sections 12-37-250 and 12-37-251).
- I. Extension of time for the performance of the duties imposed upon the assessors and auditors for the valuation of property for tax purposes, unless specific statutory provisions indicate otherwise. (Section 12-4-520(6).)
- J. Postponement of the time for the imposition of penalties, when the Comptroller General extends the time for the collection of taxes. (Section 12-4-520(6).)
- K. Supervisory authority over the values to be placed upon the duplicate: Tax Map Numbers, assessments and valuations, millage computation processes, exemptions - except those administered by the Comptroller General - see III.E, above - assessment ratios and other required data. Sections 12-4-520, 12-4-530, 12-39-260, and Regulation 117-117.

V. Procedures.

The procedures to be used by DOR and the Comptroller General are as follows:

A. Upon receipt of letter or call requesting information:

- (1) Determine if inquiry is under jurisdiction of DOR or under the Comptroller General;
- (2) Refer inquiry to proper agency;
- (3) All responses under DOR's jurisdiction will be made by DOR, with a copy to the Comptroller General;
- (6) All responses to inquiries under Comptroller General's jurisdiction will be made by Comptroller General or under Comptroller General cover, with a copy to DOR.

This agreement is attested to by the persons whose signatures appear below as the procedure by which the two state agencies represented will carry out their respective duties in interacting with the various county officials. This agreement sets forth various responsibilities with respect to jurisdiction by each agency. This agreement in no way supersedes nor is meant

to be in conflict with the South Carolina Code of Laws. To the extent that there is discovered to be a conflict, this agreement is hereby amended to conform to the Code. This is not a legally binding agreement but it intended as a statement of understanding and agreement between the two agencies by which they are bound by their mutual honor, trust, and respect.

Signed this 6TH day of July, 1999

By: s/ James A. Lander
For the Comptroller General

Signed this 6th day of July, 1999

By: s/ Elizabeth Carpentier
For the Department of Revenue