



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

S.C. PRIVATE LETTER RULING: #87-2

TO: Estates Representative
Attorney at Law

SUBJECT: Lien Against the Estate of Mr. X
Warrant for Distrainment, No. (Deleted)

REFERENCE: S.C. Code Section 21-15-640

AUTHORITY: S.C. Code Section 12-3-170

SCOPE: A Private Letter Ruling is a temporary document issued to a taxpayer, upon request, and it applies only to the specific facts or circumstances related in the request. Private Letter Rulings have no precedential value and are not intended for distribution.

Question:

Would the lien recorded by the Commission on (Date) attach as a lien against property of the Estate of Mr. X.

Facts:

Mr. X died in 198X. The first publication of notice to creditors took place in May 198X. On March 15, 198X an assessment for individual income taxes was mailed to Mr. X. This assessment was the result of adjustments made in accordance with an examination by the Internal Revenue Service. Subsequent to the assessment, Warrant for Distrainment No. (Delete) was issued in July 198X and recorded in August 198X. The Estate of Mr. X was closed in January of 198X, as recorded in Probate Court for Richland County .

Law:

South Carolina Code Section 21-15-640 provides:

All claims of creditors of such estate shall upon the expiration of five months after the first publication of the notice prescribed in 21-15-630 be forever barred unless, before the expiration of such period, an account thereof, duly attested, shall have been filed with such executor or administrator or with the judge of probate of the county in which such estate is being administered. But the provisions of this section shall not apply to obligations secured by mortgages or other liens which have been duly recorded prior to the expiration of such period.

Conclusion:

As the lien of the Commission was not recorded prior to the expiration of the five month period prescribed in Code Section 21-15-640, the warrant would not attach as a lien against the property of the Estate of Mr. X.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.

S. Hunter Howard, Jr., Chairman

s/John M. Rucker

John M. Rucker, Commissioner

s/Howard E. Duvall Jr.

Howard E. Duvall, Jr., Commissioner

Columbia, South Carolina
April 1, 1987