



**ARTHUR JOHNSTON**  
MADISON COUNTY CHANCERY CLERK  
P. O. BOX 404  
CANTON, MS 39046  
JOHNSTON@MADISON-CO.COM

PHONE 601-855-5526

FAX 601-855-5759

February 4, 2013

**MEMORANDUM**

TO: MADISON COUNTY BOARD OF SUPERVISORS

RE: HELEN DAVIS, REQUEST TO CONSIDER REIMBURSEMENT FOR LAND REDEMPTION IN ERROR

MESSAGE:

Helen Davis on June 30, 2010, redeemed delinquent taxes from 2007 on parcel # 093D-18C-147 after receiving notice of delinquency from this office. This parcel is in the name of I. J. Davis Estate. She says her deceased husband is Isaac J. Davis and claims that he is not the same as the I. J. Davis Estate. Mrs. Davis maintains that she redeemed these taxes by mistake. Notes, statutes, and Attorney Generals' Opinions from Board Attorney Mike Espy is attached for your review.

Arthur Johnston  
Madison County  
Chancery Clerk

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

**Donnie Caughman**

**From:** Arthur Johnston **Sent:** Tue 1/8/2013 8:14 AM  
**To:** Donnie Caughman  
**Cc:**  
**Subject:** FW: Tax Refund Request  
**Attachments:** [§ 27-73-7 Authority to refund erroneous payments.pdf\(23KB\)](#) [ATT133484.htm\(397B\)](#) [WestlawNext - List of 45 Notes of Decisions for § 27-73-7 Authority to refund er.pdf\(40KB\)](#) [ATT133485.htm\(397B\)](#) [Anthony E Nowak Esquire.pdf\(25KB\)](#) [ATT133486.htm\(397B\)](#) [§ 27-45-15 Sale after erroneous payment.pdf\(24KB\)](#) [ATT133487.htm\(371B\)](#)

Donnie:

Please study and figure out how we should proceed.

Arthur

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**From:** Mike Espy [mailto:mike@mikespy.com]  
**Sent:** Monday, January 07, 2013 4:20 PM  
**To:** Arthur Johnston  
**Cc:** Sharon Fleming  
**Subject:** Fwd: Tax Refund Request

Arthur, with regard to your note to me of November 5, 2012, I think the County can issue a refund pursuant to Miss. Code Sec. 27-73-7 (see attached). This statute gives authority to Tax Collector, by order of Board, to refund erroneous tax payments. The SOL is 3 yrs from payment. That does not appear to be an issue. Says refund can be given to "individual"... "who has paid any such tax in excess of the sum properly due whether paid under protest or not". The taxes she paid on property she did not own were not "properly due". Helen Davis does need to make a request of the Board. I also attached a list of cases/AG Opinions that reference this statute and Nowak AG Opinion (see highlighted cases).

The statute you refer to, 27-45-15 (see attached), authorizes the County to sell lands for delinquent taxes when the payments made were by mistake (i.e. a person mistakenly paid taxes on a delinquent parcel they did not own). This gets the property sold but doesn't get her refunded. Let me know if this takes care of the problem.

Library MADISON COUNTY TAX 2013

DAVIS I J -ESTATE-  
3498 N LIBERTY ST

Parcel 093D-18C-147/00.00 PPIN 29106  
Alt Parcel 0931  
Exempt Code JD 0 Tax District 5CC  
Subdivision 07920  
SHERWOOD ESTATES REVISE  
Neighborhood Map

C/S/Z CANTON MS 39046

Sect/Twn/Rng 18 09N 03E Blk St Addr 3498 LIBERTY ST N

Cls	C-Acres	C-Value	U-Acres	U-Value	T-Acres	Improved	True	Assessed
1		35000				18460	53460	8019
2		35000				18460	53460	8019

Homestead Type 1=065 2=DAV 3=DIS 4=Regular Regular 100

Mtg Eligible for Class 1 N (Y/N)

New Value Added F-Fire O-Override Deed Book 178 Page 312

Drainage Code Benefit Price Total Deed Date 1 / 1 / 1980

Current 2010 Yr Added 11 12 2001

L 35000 CNV

B 18460 Chged 11 21 2011

Levee Benefits X .05 = Use1 1110 Use2 DSEV

F3 NEXT PARCEL, F5 LEGAL, F6 ADDENDUM, F7 DEEDS, F8 FLAGS, F9 OPTIONS

F3 next record, Page-Up prev record, F13 Paperlink



RELEASE NO. 28788  
 RECEIPT NO. 10788  
 STATE OF MISSISSIPPI  
 COUNTY OF MADISON

RELEASE FROM DELINQUENT TAX SALE

IN CONSIDERATION OF \$ 1,574.64 CASH DOLLARS  
 received from PATRICIA L DAVIS 773.606.695 3498 N LIBERTY ST CANTON, MS 39066  
 the amount to redeem the following property:

DESCRIPTION OF PROPERTY	SEC	TWP	RANGE	ACRES
0930-18C-1A7/00.00 LOT 97 E/S N LIBERTY ST 7920	18	09N	03E	

assessed to DAVIS I J -ESTATE- and sold to Viking Investments 4  
 at Delinquent tax sale on the 29 day of AUGUST, 2011, for the year 2010 the said land is hereby released from all claim  
 or title of state or purchaser under said tax sale, in accordance with Section 27-45-3, Mississippi Code of 1972 (as  
 amended).

hand and official seal of office, this the 18 day of JULY, 2012

Arthur Johnston, Chancery Clerk  
 Chancery Clerk



(BE SURE TO HAVE YOUR CHANCERY CLERK RECORD THIS RELEASE)

STATEMENT OF AMOUNT NECESSARY TO REDEEM

<b>I. DELINQUENT TAX AND FEES DUE INDIVIDUAL OR STATE PURCHASER:</b>		
1. Amount of 2010 delinquent tax (Section 27-45-3)	\$ 1114.00	
2. Interest on delinquent tax (Section 27-41-9)	77.98	
3. Publisher's fee (per publication) (Section 25-7-21(3))	3.00	
4. Subtotal lines 1, 2 and 3		\$ 1194.98
5. Purchaser's interest on line 4 at 1% (or 1 1/2% for sales after March 27, 1995) per month since sale date (12 months x 1.50% x line 4) (Section 27-45-3)		\$ 215.10
6. Damages (only for sales prior to July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-3)		\$ .00
7. TOTAL AMOUNT DUE TO PURCHASER (lines 4, 5 and 6)		\$ 1410.08
<b>II. DAMAGES, FEES AND ACCRUED TAXES DUE TO COUNTY:</b>		
8. Damages (only for sales from July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-1)	\$ 55.70	
9. County actual postage fee (Section 27-43-3)	.00	
10. Publisher's actual fee (if paid by county) (Section 27-43-3)	.00	
11. Accrued taxes for year 0000 (Section 27-45-3)	.00	
12. Interest on accrued taxes for year 0000 (Section 27-45-3) (1% x 00 months from tax due date x line 1)	.00	
13. Accrued taxes for year 0000 (Section 27-45-3)	.00	
14. Interest on accrued taxes for year 0000 (Section 27-45-3) (1% x 00 months from tax due date x line 12)	.00	
15. TOTAL AMOUNT DUE TO COUNTY (lines 8 through 14)		\$ 55.70
<b>III. FEES DUE TO COUNTY OFFICIALS:</b>		
Sheriff's Fees:		
16. 1st notice (Section 27-43-3)	.00	
17. 2nd notice (Section 27-43-3)	.00	
18. TOTAL AMOUNT DUE TO SHERIFF (lines 16 and 17)		\$ .00
Chancery Clerk's Fees:		
19. Identify record owners (Section 27-43-3)	50.00	
20. Recording list, each subdivision (Section 25-7-21(4)(a))	.00	
21. Issue 1st sheriff's notice (Section 27-43-3)	.00	
22. Mail 1st owner's notice (Section 27-43-3)	.00	
23. Issue 2nd sheriff's notice (Section 27-43-3)	.00	
24. Mail 2nd owner's notice (Section 27-43-3)	.00	
25. Issue each lienor notice (Section 27-43-11)	.00	
26. Publisher's actual fee, if paid by clerk (Section 27-43-3)	.00	
27. Recording each redemption (Section 26-7-21(4)(d))	10.00	
28. Abstracting each subdivision (Section 25-7-21(4)(e))	1.00	
29. Certify amount to redeem (Section 25-7-9(1)(a))	1.00	
30. Certify release from sale (Section 25-7-9(1)(a))	1.00	
31. Subtotal lines 19 through 30		\$ 63.00
32. Calculation subtotal lines 7, 15, 18 and 31 (\$ 1520.78)		\$ 45.86
33. Redemption fee 3% x line 32 (Section 25-7-21(4)(f))		\$ 108.86
34. TOTAL AMOUNT DUE TO CHANCERY CLERK (lines 31 and 33)		\$ 108.86
<b>IV. AMOUNT TO RECEIVE FROM REDEEMER:</b>		
35. GRAND TOTAL (lines 7, 15, 18 and 34)		\$ 1574.64

I certify that the above is a true and correct statement of amount necessary to redeem said property, on this the 18 day of JULY, 2012

Arthur Johnston, Chancery Clerk  
 Chancery Clerk

BY: *Arthur Johnston* D.C.



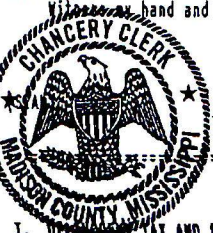
RELEASE NO. 28669  
 RECEIPT NO. 10520  
 STATE OF MISSISSIPPI  
 COUNTY OF MADISON

RELEASE FROM DELINQUENT TAX SALE

IN CONSIDERATION OF \$ 1,768.46 CREDIT CARD DOLLARS  
 received from PATRICIA I. DAVIS 773.606.6951 3498 N LIBERTY ST CANTON, MS 39046  
 the amount to redeem the following property:

DESCRIPTION OF PROPERTY	SEC	TWP	RANGE	ACRES
0930-18C-147/00.00 LOT 97 E/S N LIBERTY ST 7920	18	09N	03E	

assessed to DAVIS I J -ESTATE- and sold to Kelleher, David C.  
 at Delinquent tax sale on the 10 day of AUGUST, 2010, for the year 2009 the said land is hereby released from all claim  
 or title of state or purchaser under said tax sale, in accordance with Section 27-45-3, Mississippi Code of 1972 (as  
 amended).



Arthur Johnston, Chancery Clerk  
 Chancery Clerk

(BE SURE TO HAVE YOUR CHANCERY CLERK RECORD THIS RELEASE)

STATEMENT OF AMOUNT NECESSARY TO REDEEM

<b>I. DELINQUENT TAX AND FEES DUE INDIVIDUAL OR STATE PURCHASER:</b>			
1. Amount of 2009 delinquent tax (Section 27-45-3) .....	1096.04		
2. Interest on delinquent tax (Section 27-41-9) .....	76.72		
3. Publisher's fee (per publication) (Section 25-7-21(3)) .....	3.00		
4. Subtotal lines 1, 2 and 3 .....		\$	1175.76
5. Purchaser's interest on line 4 at 1% (or 1 1/2% for sales after March 27, 1995) per month since sale date { 23 months x 1.50 % x line 4 } (Section 27-45-3) .....		\$	405.64
6. Damages (only for sales prior to July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-3) .....		\$	.00
7. TOTAL AMOUNT DUE TO PURCHASER (lines 4, 5 and 6) .....		\$	1581.40
<b>II. DAMAGES, FEES AND ACCRUED TAXES DUE TO COUNTY:</b>			
8. Damages (only for sales from July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-1) .....	54.80		
9. County actual postage fee (Section 27-43-3) .....	5.75		
10. Publisher's actual fee (if paid by county) (Section 27-43-3) .....	.00		
11. Accrued taxes for year 0000 (Section 27-45-3) .....	.00		
12. Interest on accrued taxes for year 0000 (Section 27-45-3) { 1% x 00 months from tax due date x line 11 } .....	.00		
13. Accrued taxes for year 0000 (Section 27-45-3) .....	.00		
14. Interest on accrued taxes for year 0000 (Section 27-45-3) { 1% x 00 months from tax due date x line 12 } .....	.00		
15. TOTAL AMOUNT DUE TO COUNTY (lines 8 through 14) .....		\$	60.55
<b>III. FEES DUE TO COUNTY OFFICIALS:</b>			
Sheriff's Fees:			
16. 1st notice (Section 27-43-3) .....	4.00		
17. 2nd notice (Section 27-43-3) .....	.00		
18. TOTAL AMOUNT DUE TO SHERIFF (lines 16 and 17) .....		\$	4.00
Chancery Clerk's Fees:			
19. Identify record owners (Section 27-43-3) .....	50.00		
20. Recording list, each subdivision (Section 25-7-21(4)(a)) .....	.00		
21. Issue 1st sheriff's notice (Section 27-43-3) .....	.00		
22. Mail 1st owner's notice (Section 27-43-3) .....	1.00		
23. Issue 2nd sheriff's notice (Section 27-43-3) .....	.00		
24. Mail 2nd owner's notice (Section 27-43-3) .....	.00		
25. Issue each lienor notice (Section 27-43-11) .....	7.00		
26. Publisher's actual fee, if paid by clerk (Section 27-43-3) .....	.00		
27. Recording each redemption (Section 26-7-21(4)(d)) .....	10.00		
28. Abstracting each subdivision (Section 25-7-21(4)(e)) .....	1.00		
29. Certify amount to redeem (Section 25-7-9(1)(a)) .....	1.00		
30. Certify release from sale (Section 25-7-9(1)(a)) .....	1.00		
31. Subtotal lines 19 through 30 .....		\$	71.00
32. Calculation subtotal lines 7, 15, 18 and 31 (\$ 1716.95) .....			
33. Redemption fee 3% x line 32 (Section 25-7-21(4)(f)) .....		\$	51.51
34. TOTAL AMOUNT DUE TO CHANCERY CLERK (lines 31 and 33) .....		\$	122.51
<b>IV. AMOUNT TO RECEIVE FROM REDEEMER:</b>			
35. GRAND TOTAL (lines 7, 15, 18 and 34) .....		\$	1768.46

I certify that the above is a true and correct statement of amount necessary to  
 redeem said property, on this the 25 day of JUNE, 2012

Arthur Johnston, Chancery Clerk  
 Chancery Clerk  
 BY: *Arthur Johnston* D.C.

RELEASE NO. 26862  
 RECEIPT NO. 10390  
 STATE OF MISSISSIPPI  
 COUNTY OF MADISON

RELEASE FROM DELINQUENT TAX SALE

IN CONSIDERATION OF \$ 1,697.42 CASH DOLLARS  
 received from LUSTIA GRANT 601.750.4483 3498 N LIBERTY ST CANYON, MS 39046  
 the amount to redeem the following property:

093D-18C-147/00.00	DESCRIPTION OF PROPERTY	7920	SEC 18	TWP 09N	RANGE 03E	ACRES
	LOT 97 E/S N LIBERTY ST					

assessed to DAVIS J. - ESTATE - and sold to S & S Properties, LL  
 at delinquent tax sale on the 31 day of AUGUST, 2009, for the year 2008 the said land is hereby released from all claim  
 or title of state or purchaser under said tax sale, in accordance with Section 27-45-3, Mississippi Code of 1972 (as  
 amended) and official seal of office, this the 10 day of AUGUST, 2011

Arthur Johnston, Chancery Clerk  
 Chancery Clerk



(BE SURE TO HAVE YOUR CHANCERY CLERK RECORD THIS RELEASE)

STATEMENT OF AMOUNT NECESSARY TO REDEEM

<b>I. DELINQUENT TAX AND FEES DUE INDIVIDUAL OR STATE PURCHASER:</b>		
1. Amount of 2008 delinquent tax (Section 27-45-3) .....	\$ 1013.04	
2. Interest on delinquent tax (Section 27-41-9) .....	70.91	
3. Publisher's fee (per publication) (Section 25-7-21(3)) .....	3.00	
4. Subtotal lines 1, 2 and 3 .....		\$ 1086.95
5. Purchaser's interest on line 4 at 1% (or 1 1/2% for sales after March 27, 1995) per month since sale date { 25 months x 1.50 % x line 4 } (Section 27-45-3) .....		\$ 407.61
6. Damages (only for sales prior to July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-3) .....		\$ .00
7. TOTAL AMOUNT DUE TO PURCHASER (lines 4, 5 and 6) .....		\$ 1494.56
<b>II. DAMAGES, FEES AND ACCRUED TAXES DUE TO COUNTY:</b>		
8. Damages (only for sales from July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-1) .....	50.65	
9. County actual postage fee (Section 27-43-3) .....	16.77	
10. Publisher's actual fee (if paid by county) (Section 27-43-3) .....	1.00	
11. Accrued taxes for year 0000 (Section 27-45-3) .....	.00	
12. Interest on accrued taxes for year 0000 (Section 27-45-3) { 1% x 00 months from tax due date x line 11 } .....	.00	
13. Accrued taxes for year 0000 (Section 27-45-3) .....	.00	
14. Interest on accrued taxes for year 0000 (Section 27-45-3) { 1% x 00 months from tax due date x line 12 } .....	.00	
15. TOTAL AMOUNT DUE TO COUNTY (lines 8 through 14) .....		\$ 68.42
<b>III. FEES DUE TO COUNTY OFFICIALS:</b>		
Sheriff's Fees:		
16. 1st notice (Section 27-43-3) .....	12.00	
17. 2nd notice (Section 27-43-3) .....	.00	
18. TOTAL AMOUNT DUE TO SHERIFF (lines 16 and 17) .....		\$ 12.00
Chancery Clerk's Fees:		
19. Identify record owners (Section 27-43-3) .....	50.00	
20. Recording list, each subdivision (Section 25-7-21(4)(a)) .....	1.00	
21. Issue 1st sheriff's notice (Section 27-43-3) .....	6.00	
22. Mail 1st owner's notice (Section 27-43-3) .....	3.00	
23. Issue 2nd sheriff's notice (Section 27-43-3) .....	.00	
24. Mail 2nd owner's notice (Section 27-43-3) .....	.00	
25. Issue each lienor notice (Section 27-43-1) .....	.00	
26. Publisher's actual fee, if paid by clerk (Section 27-43-3) .....	.00	
27. Recording each redemption (Section 26-7-21(4)(d)) .....	10.00	
28. Abstracting each subdivision (Section 25-7-21(4)(e)) .....	1.00	
29. Certify amount to redeem (Section 25-7-9(1)(a)) .....	1.00	
30. Certify release from sale (Section 25-7-9(1)(a)) .....	1.00	
31. Subtotal lines 19 through 30 .....		\$ 73.00
32. Calculation subtotal lines 7, 15, 18 and 31 (\$ 1647.98) .....		\$ 49.44
33. Redemption fee 3% x line 32 (Section 25-7-21(4)(f)) .....		\$ 122.44
34. TOTAL AMOUNT DUE TO CHANCERY CLERK (lines 31 and 33) .....		\$ 122.44
<b>IV. AMOUNT TO RECEIVE FROM REDEEMER:</b>		
35. GRAND TOTAL (lines 7, 15, 18 and 34) .....		\$ 1697.42

I certify that the above is a true and correct statement of amount necessary to  
 redeem said property, on this the 10 day of AUGUST, 2011

Arthur Johnston, Chancery Clerk  
 Chancery Clerk



RELEASE NO. 22200  
 RECEIPT NO. 10105  
 STATE OF MISSISSIPPI  
 COUNTY OF MADISON

RELEASE FROM DELINQUENT TAX SALE

IN CONSIDERATION OF R/O \$ 1,581.75 CHECK DOLLARS  
 received from HELEN DAVIS 601.952.7604 4119 MEADOWLAKE DR JACKSON, MS 39206  
 the amount to redeem the following property:

DESCRIPTION OF PROPERTY	SEC	TWP	RANGE	ACRES
0930-18C-147/00.00 LOT 97 E/S N LIBERTY ST <u>7920</u>	19	09N	03E	

assessed to DAVIS I J -ESTATE- and sold to Avatar, LLC  
 at Delinquent Tax Sale on the 25 day of AUGUST, 2008, for the year 2007 the said land is hereby released from all claim  
 or title of state or purchaser under said tax sale, in accordance with Section 27-45-3, Mississippi Code of 1972 (as  
 amended)



and official seal of office, this the 30 day of JUNE, 2010  
Arthur Johnston, Chancery Clerk  
 Chancery Clerk

(BE SURE TO HAVE YOUR CHANCERY CLERK RECORD THIS RELEASE)

STATEMENT OF AMOUNT NECESSARY TO REDEEM

<b>I. DELINQUENT TAX AND FEES DUE INDIVIDUAL OR STATE PURCHASER:</b>			
1. Amount of 2007 delinquent tax (Section 27-45-3)	\$	968.55	
2. Interest on delinquent tax (Section 27-41-9)	\$	67.80	
3. Publisher's fee (per publication) (Section 25-7-21(3))	\$	3.00	
4. Subtotal lines 1, 2 and 3	\$	1039.35	
5. Purchaser's interest on line 4 at 1% (or 1 1/2% for sales after March 27, 1995) per month since sale date (23 months x 1.50% x line 4) (Section 27-45-3)	\$	358.58	
6. Damages (only for sales prior to July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-3)	\$	.00	
7. TOTAL AMOUNT DUE TO PURCHASER (lines 4, 5 and 6)	\$	1397.93	
<b>II. DAMAGES, FEES AND ACCRUED TAXES DUE TO COUNTY:</b>			
8. Damages (only for sales from July 1, 1994) 5% on delinquent tax (5% x line 1) (Section 27-45-1)	\$	48.43	
9. County actual postage fee (Section 27-43-3)	\$	10.32	
10. Publisher's actual fee (if paid by county) (Section 27-43-3)	\$	1.00	
11. Accrued taxes for year 0000 (Section 27-43-3)	\$	.00	
12. Interest on accrued taxes for year 0000 (Section 27-45-3) (1% x 00 months from tax due date x line 11)	\$	.00	
13. Accrued taxes for year 0000 (Section 27-45-3)	\$	.00	
14. Interest on accrued taxes for year 0000 (Section 27-45-3) (1% x 00 months from tax due date x line 12)	\$	.00	
15. TOTAL AMOUNT DUE TO COUNTY (lines 8 through 14)	\$	59.75	
<b>III. FEES DUE TO COUNTY OFFICIALS:</b>			
Sheriff's Fees:			
16. 1st notice (Section 27-43-3)	\$	8.00	
17. 2nd notice (Section 27-43-3)	\$	.00	
18. TOTAL AMOUNT DUE TO SHERIFF (lines 16 and 17)	\$	8.00	
Chancery Clerk's Fees:			
19. Identify record owners (Section 27-43-3)	\$	50.00	
20. Recording list, each subdivision (Section 25-7-21(4)(a))	\$	1.00	
21. Issue 1st sheriff's notice (Section 27-43-3)	\$	4.00	
22. Mail 1st owner's notice (Section 27-43-3)	\$	2.00	
23. Issue 2nd sheriff's notice (Section 27-43-3)	\$	.00	
24. Mail 2nd owner's notice (Section 27-43-3)	\$	.00	
25. Issue each lienor notice (Section 27-43-11)	\$	.00	
26. Publisher's actual fee, if paid by clerk (Section 27-43-3)	\$	.00	
27. Recording each redemption (Section 26-7-21(4)(d))	\$	10.00	
28. Abstracting each subdivision (Section 25-7-21(4)(e))	\$	1.00	
29. Certify amount to redeem (Section 25-7-9(1)(a))	\$	1.00	
30. Certify release from sale (Section 25-7-9(1)(a))	\$	1.00	
31. Subtotal lines 19 through 30	\$	70.00	
32. Calculation subtotal lines 7, 15, 18 and 31 (\$ 1535.68)	\$		
33. Redemption fee 3% x line 32 (Section 25-7-21(4)(f))	\$	46.07	
34. TOTAL AMOUNT DUE TO CHANCERY CLERK (lines 31 and 33)	\$	116.07	
<b>IV. AMOUNT TO RECEIVE FROM REDEEMER:</b>			
35. GRAND TOTAL (lines 7, 15, 18 and 34)	\$	1581.75	

I certify that the above is a true and correct statement of amount necessary to redeem said property, on this the 30 day of JUNE, 2010

Arthur Johnston, Chancery Clerk  
 Chancery Clerk  
 BY: Arthur Johnston D.C.



NOTICE TO OWNERS

STATE OF MISSISSIPPI  
COUNTY OF MADISON

To: DAVIS J - ESTATE

You will take notice that PARCEL# 093D-18C-147/00.00

SECTN 18 TOWNSHIP 07N RANGE 03E LOT 97 E/4S N. LIBERTY ST

RECEIPT# 10580

land assessed to you or supposed to be owned by you, was on the  
30th day of August, 2010, sold to Kelleher, David C.  
for the taxes of the year 2009 and that the title to said land  
will become absolute in purchaser(s) unless redemption from said  
tax sale be made on or before the 30th day of August, 2010.

This the \_\_\_\_\_ day of \_\_\_\_\_,

Arthur Johnston  
Chancery Clerk of Madison County

By \_\_\_\_\_ DC

Mail Notice to Owner to

093D-18C-147  
DAVIS J - ESTATE  
3498 NORTH LIBERTY STREET  
CANTON, MS 39046  
uncame 1

Property Address:  
556 N. LIBERTY ST,  
CANTON, MS 39046

Sheriff's Notice Issued  
May 31, 2012  
Returned:

1. LAST Redeemed:  
LUSTIA GRANT  
3498 N. LIBERTY ST.  
CANTON, MS 39046  
(601) 752-4463

Liener Notice

1. M. Kelleher - Bought 2/22/12

RECEIVED  
BY: Patricia Davis 773-606-1951  
DATE: 6/25/12  
Receipt No: 10520



KAM  
3/19/11

Handed to  
Property Address  
556 N Liberty St

Handed to  
Property Address  
556 N Liberty St

3498 N. Liberty St.  
Canton, MS 39046

3498 N. Liberty St.  
Canton, MS 39046

Cast Returned by: Helen Davis

4115 Meadowlark Dr.  
Jkt, MS 39206  
(601) 982-7604

Liener Notice

1. \_\_\_\_\_  
2. \_\_\_\_\_

land assessed to you or supposed to be owned by you was on the  
27th day of August, 2007, sold to S. S. Properties, L.L.C.

for the taxes of the year 2008 and that the title to said land  
will become absolute in purchaser's hands unless redemption from said  
tax sale be made on or before the 27th day of August, 2011.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Arthur Johnston  
Chancery Clerk of Madison County

178/312 (11/80)  
Sold before/never matured

NOTICE TO OWNERS  
STATE OF MISSISSIPPI  
COUNTY OF MADISON

REDEEMED  
BY: Lisa C. Voss

WHOM: 3498 N. Liberty St  
Canton, MS 39046  
Receipt No: 10370

You will take notice that search # 0310-180-147700-00  
179

SECTN 1B TNSHP 07N RNGE 03E LOT 97 E/S N LIBERTY ST

RECEIPT# 10370

land assessed to you or supposed to be owned by you was on the  
27th day of August, 2007, sold to S. S. Properties, L.L.C.

for the taxes of the year 2008 and that the title to said land  
will become absolute in purchaser's hands unless redemption from said  
tax sale be made on or before the 27th day of August, 2011.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Arthur Johnston  
Chancery Clerk of Madison County

178/312 (11/80)  
Sold before/never matured

ADDITIONAL DILIGENT SEARCH & INQUIRY  
CURRENT LAND ROLL  
ADDRESS OF PROP. VS ADDRESS ON DEED  
LOCAL CURRENT PHONE BOOKS  
E911 ADDRESS DATABASE  
SOS WEBSITE  
INTERNET

Notes

178/312 (11/80)  
Sold before/never matured



XM  
9/10/10

NOTICE TO OWNERS  
 STATE OF MISSISSIPPI  
 COUNTY OF MADISON  
 To: DAVIS I J -ESTATE-  
 REDEEMED  
 BY: Helen Davis  
 WITH: 4119 Meadowlark Dr.  
 DATE: Madison, MS 39100  
 Receipt # 10105

You will take notice that PARCEL# 093D-18C-147/00.00  
 7840/  
 SECTN 18 TNSHP 09N RNGE 03E LOT 97 E/S N LIBERTY ST  
 RECEIPT# 10105  
 30350/

land assessed to you or supposed to be owned by you, was on the  
 25th day of August, 2008, sold to Avatar, LLC  
 for the taxes of the year 2007 and that the title to said land  
 will become absolute in purchaser(s) unless redemption from said  
 tax sale be made on or before the 25th day of August, 2010.  
 This the \_\_\_ day of \_\_\_\_\_

Arthur Johnston  
 Chancery Clerk of Madison County  
 By \_\_\_\_\_ DC

178/312

Never Sold/Matured

unable to locate  
 Mail Notice to Owner to  
 Landfall  
 1. I. S. Davis - Est -  
 2. J. J. Davis - Est -  
 3498 N. Liberty St.  
 Canton, MS 39046  
 (601) 859-4258 ext 110  
 Assured Guaranty  
 aka cancelled

3. % Helen Davis  
 4119 Meadowlark Dr.  
 JXM, MS 39206  
 (601) 982-7604  
 spoke of Helen Davis on 9/15/10; speaks negatively; the amount is

Liendor Notice  
 1. \_\_\_\_\_  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_  
 4. \_\_\_\_\_

Notes:  
 Notice to Owner(s)  
 Notice to Lienor(s)  
 Personal Service

ADDITIONAL DILIGENT SEARCH & INQUIRY  
 CURRENT LAND ROLL / HOMESTEAD ROLL  
 ADDRESS OF PROP VS ADDRESS ON DEED  
 LOCAL CURRENT PINE BOOKS  
 1911 ADDRESS DATABASE  
 SAS WEBSITE  
 COURT DOCKETS 2005-2008  
 INTERNET

2001-156



West's Annotated Mississippi Code  
Title 27. Taxation and Finance  
Chapter 73. Tax Refunds

Miss. Code Ann. § 27-73-7

§ 27-73-7. Authority to refund erroneous payments

Currentness

The tax collector is authorized and empowered to refund any individual, firm or corporation any ad valorem, privilege or excise tax which has been paid or collected through error or otherwise when such person, individual, firm or corporation has paid any such tax in excess of the sum properly due whether paid under protest or not. Taxes erroneously paid within the meaning of this section shall include, but not be limited to, double payment, or overpayment, or payment on state, United States, vacant and exempt land, and the purchase paid for the redemption of lands erroneously sold for taxes.

All refunds under this provision shall be made out of any monies collected by the tax collector from the same source of revenue, or if such source of revenue no longer exists the refund shall come from the general fund collections. The tax collector shall issue a warrant to the claimant and deduct the proper amounts from his next settlement.

**Credits**

Laws 1932, Ch. 311, §§ 1 to 3; Laws 1985, Ch. 425, § 8, eff. from and after passage (approved March 26, 1985).

Notes of Decisions (45)

Miss. Code Ann. § 27-73-7, MS ST § 27-73-7  
Current through End of 2012 Regular Session

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End of Document

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Notes Of Decisions (45)

**Construction with other laws**

Statute governing requests for refunds of taxes paid to Auditor of Public Accounts did not apply to request for refund of taxes paid directly to the county tax collector, which were governed by another statute. *State v. Loranth and Associates, Inc.* (Miss. 1999) 746 So.2d 312, rehearing denied. Taxation ↻ 2776

If the board of supervisors of Jackson County finds consistent with fact that certain property is owned by the United States and that the property was sold at tax sales, then the board may void the tax sales by order spread upon the minutes. A purchaser at a tax sale would then be entitled to a refund of the purchase price paid at the tax sale, but not payment of interest, except that portion of the purchase price that represented interest due on the taxes prior to the tax sale. A purchaser would be entitled to a refund so long as the application is initiated within the three-year statute of limitations set forth in Section 15-1-49. In such case, the board of supervisors must either enter an order to be recorded and properly indexed in the land records declaring the tax deed void ab initio, or, more conclusively, obtain a chancery court order doing the same. Op.Atty.Gen. No. 2000-0310, Yancey, July 14, 2000.

Reading Sections 27-41-77 and 27-73-7 together, a purchaser at a tax sale which is declared void is entitled to a refund of "the purchase paid for lands erroneously sold for taxes," even in a situation where the purchaser paid in excess of the taxes due and costs. Op.Atty.Gen. No. 2000-0410, Myers, July 28, 2000.

Reading 27-73-7 and 27-35-143(13) together, only the assessment roll for 1995 can be amended under the statute to show the Phil Hardin Foundation property as exempt, so only the taxes for 1995 may be refunded. Op.Atty.Gen. No. 96-0159, Hammack, April 26, 1996.

Where a not-for-profit corporation, qualified under Section 501(c)(3) of the Internal Revenue Code claims an exemption for property taxation pursuant to Section 27-31-1(dd) but did not object to the county's 1999 tax roll, and such rolls were finally approved and taxes levied on properties listed therein, the Board of Supervisors may, pursuant to Sections 27-31-1(dd) and 27-35-143(13), amend the assessment roll for 1999 to show the property in question as exempt so that the taxes may be refunded pursuant to Section 27-73-7. Op.Atty.Gen. No. 2000-0212, Reynolds, April 28, 2000.

Corrections in the assessment roll must be made pursuant to Section 27-35-143 which must be initiated prior to September 30 next, being the end of the fiscal year in which the taxes on such erroneous assessment were payable; however, the board of supervisors may, pursuant to Sections 27-73-3 and 27-73-7, entertain a refund for payments in excess of the sum properly due as a consequence of the error, subject to the three year time limitation for claims accruing on or after July 1, 1989 and six year limitation for claims accruing prior to July 1, 1989. Op.Atty.Gen. Hollimon, July 8, 1992

**Limitations**

Where a taxpayer has paid through error or otherwise a sum in excess of the taxes properly due, the tax collector is authorized, on order of the board of supervisors, to refund such erroneous payment. In those cases the taxpayer must apply or petition for such refund and the three-year statute of limitation applies. Such refunds may be made upon the motion of the board of supervisors, but that the three-year statute of limitations would still apply and cannot be waived. Op.Atty.Gen. No. 2007-00212, Nowak, April 27, 2007, 2007 WL 1725176.

Under Section 27-73-7, a county may lawfully refund the entire amount of ad valorem taxes erroneously paid by a co-tenant out of possession, after the tax sale had been concluded, where the co-tenant out of possession was under the mistaken belief that the taxes were being properly assessed and due and owing inasmuch as the county was sending her tax due notices. However, a refund for erroneously paid taxes may only be made for taxes that were paid within three years prior to the date the petition seeking such refunds was filed with the board of supervisors. Op.Atty.Gen. No. 2003-0423, Griffith, September 12, 2003.

A taxpayer who pays an erroneous assessment or purchases property at a void tax sale must apply or petition for a refund, and since there is no specific limitation period provided for making such requests, the three year limitation period provided for by Section 15-1-49 is applicable. Op.Atty.Gen. No. 98-0082, Myers, Feb. 20, 1998.



When a taxpayer has paid through error or otherwise a sum in excess of that which was properly due, the tax collector is authorized, on order of the board of supervisors, to refund such erroneous tax payment; however, a refund for erroneously paid taxes may be made only for taxes that were paid within three (3) years prior to the date the petition seeking such refunds was filed with the board of supervisors under Section 15-1-49. Op.Atty.Gen. No. 97-0173, Barry, June 13, 1997.

A refund of erroneously paid taxes may be made for taxes that were paid within three (3) years prior to the date the petition seeking such refunds was filed with the board of supervisors. Op.Atty.Gen. No. 96-0689, Reynolds, Oct. 4, 1996.

Where there is no specific statute that prescribes the time within which a claim for a refund of erroneously paid taxes must be made, the three (3) year period of limitation provided for in Section 15-1-49 applies; therefore, a refund of erroneously paid taxes may be made for taxes that were paid within three (3) years prior to the date the petition seeking such refunds was filed with the board of supervisors. Op.Atty.Gen. No. 96-0087, Fortier, Feb. 23, 1996.

Where an individual has paid through error or otherwise "in excess of the sum properly due" as a consequence of double assessment, the tax collector, on order of the board of supervisors, shall refund such overpayment; however, claims for erroneous tax payments, except those enumerated in § 27-73-5, are subject to § 15-1-49(1) which provides a three year time limitation for claims accruing on or after July 1, 1989 and a six year limitation for claims accruing prior to July 1, 1989 Op.Atty.Gen. Greco, March 4, 1992.

Refund of erroneously paid ad valorem taxes could be made for any payments that were made within three years prior to the date the petition seeking such refunds was filed with the Board of Supervisors. Op.Atty.Gen. Robinson, Dec. 12, 1990.

If the county tax assessor/collector determines that a landowner has in fact made an overpayment of ad valorem property taxes, and if the landowner properly files for a refund, then the tax assessor/collector may refund the amount of ad valorem property taxes which should not have been paid pursuant to section 27-73-7; the time limitations set forth in section 15-1-49 apply to refunds of ad valorem property taxes. Op.Atty.Gen. Shepard, June 6, 1990.

#### **Authority to refund**

The Tax Collector of the City of Wiggins may refund ad valorem taxes paid by Coastal Paper which became due after the effective date of the exemption set forth in the directive of the Tax Commission. Op.Atty.Gen. No. 93-0599, Taylor, Sept. 9, 1993.

Section 27-73-7 authorizes the tax collector to refund the taxes paid for the years which became due after the tax exemption was granted by the board of aldermen, but prior to final approval by the Tax Commission. Op.Atty.Gen. No. 93-0797, Taylor, April 21, 1994.

A municipal tax collector may refund privilege taxes paid by federal credit unions. Op.Atty.Gen. Creekmore, July 3, 1991.

#### **Persons entitled to claim refund, generally**

Where a summary judgment order finds a tax sale void, the tax sale purchaser is entitled to a refund from the tax collector for the purchase price of the land bought at the tax sale. Therefore, the tax collector may refund the purchaser the purchase price of the parcels, along with any ad valorem taxes the purchaser subsequently paid on the parcels up until the date of the court's order declaring another to be the owner of said land parcels. Further, the tax collector would be required to sell the land for taxes remaining unpaid, with proper notice thereof pursuant to statute. Op.Atty.Gen. No. 2006-00161, James, May 12, 2006, 2006 WL 1966804.

Purchaser at a tax sale could not request a refund of taxes because of double assessment or other error, since those taxes were never paid to the county; thus, taxpayer was not entitled to refund either on ground that property was doubly assessed, or that real estate did not actually exist on several of the parcels that he bid in. Op.Atty.Gen. Burrell, Nov. 8, 1990.

Where a landowner has been assessed for the past four years with two residences, one being his home and the other being the home of a neighbor, and the property owner paid taxes for the two dwellings even though



one dwelling was not located on his land, and the owner of that other dwelling also was assessed with his own; since refunds are generally governed by a three-year statute of limitations, a refund would be authorized under Section 27-73-7 to the extent the statute of limitations has not expired. Op.Atty.Gen. Welch, May 7, 1992.

Where on May 12, 1992 a nonprofit corporation donated a parcel of property in the City of Newton, Mississippi to the Mississippi Regional Housing Authority, county ad valorem taxes for the year 1991 had not been paid and the property sold for those taxes in August of 1992, the tax sale buyer paid the 1992 ad valorem taxes when they became due in January, 1993, the lien for 1992 ad valorem taxes was extinguished when the Housing Authority, a public body, acquired the property in question and the tax sale buyer was entitled to a refund of the ad valorem taxes which accrued from May 12, 1992 through December 31, 1992. Op.Atty.Gen. No. 94-0418, Logan, Jan. 12, 1995.

Where tax assessor modified "classification unit" of residential property from "A" to "C+," resulting in decrease in assessment, taxpayer is not entitled to refund of prior years' taxes under 27-73-7. Op.Atty.Gen. No. 2010-00673, Tutor, February 4, 2011.

Where a taxpayer erroneously classified certain personal property for tax years 2008 and 2009, resulting in overpayment of taxes, it is within the discretion of the tax collector as to whether to grant the taxpayer a refund under Section 27-73-7. The statute authorizes and empowers the tax collector to refund any taxpayer which has erroneously paid taxes, defining that term as including overpayment. If the tax collector determines that the taxpayer has overpaid taxes due to error, the tax collector would be authorized to refund the overpayment pursuant to 27-73-7, subject to the three-year statute of limitations for such claims. Op.Atty.Gen. No. 2011-00054, Palmer, March 23, 2011.

#### **Erroneous assessments, generally**

Evidence supported finding that taxpayer was not entitled to refund of allegedly erroneously paid ad valorem taxes for parcel that was available at tax sale; tax and special assessment were owed and unpaid by owner when taxpayer took over tax on parcel, taxpayer never reviewed stack of tax receipts from tax sale in order to discover subject parcel until 18 months after tax sale, and clerk provided taxpayer with tax receipt for parcel in question. *Fiddle, Inc. v. Shannon* (Miss. 2003) 834 So.2d 39. Taxation 3061

Where a taxpayer erroneously paid ad valorem taxes on property for which she had timely filed for homestead exemption as a result of a clerical error of the tax assessor in taking the property off the homestead exemption roll, the county and city tax collectors may refund the overpayment of taxes for the year 2000 to the taxpayer if the board of supervisors makes the factual finding by order on the minutes that the taxpayer was entitled to homestead exemption and that the tax assessor erroneously removed the property from the homestead exemption rolls. Op.Atty.Gen. No. 2002-0111, McWilliams, April 12, 2002.

In a specific factual situation involving an overpayment as a result of an error apparent on the face of the assessment rolls which was carried over to the statement sent to the taxpayer, if the board of aldermen of the City of Greenwood finds and spreads upon the minutes that the county tax collector has corrected the assessment and has made a refund to the taxpayer, then the city tax collector may refund the overpayment to the taxpayer. Op.Atty.Gen. No. 2002-0050, Bowman, February 22, 2002.

There is no authority in this section or in any other state statute to issue a refund for a previous year's taxes when the tax assessment was lowered in the current year by the tax assessor's office and there was no error in the previous assessment. Op.Atty.Gen. No. 2009-00337, Rogers, July 3, 2009, 2009 WL 2517261.

Where property was erroneously assessed for two years as if a house were on the property, when in fact the house had burned, Neshoba County is authorized to refund the difference in the amounts collected and the correct amount, subject to the three-year statute of limitations. Op.Atty.Gen. No. 2011-00151, White, April 22, 2011, 2011 WL 1909384.

When an error was made in the square footage of property, which error has now been corrected, the Board of Supervisors has the discretion under 27-73-7 to authorize a refund of overpaid taxes, subject to the 3-year statute of limitations.. Op.Atty.Gen. No. 2011-00440, Tutor, November 04, 2011.

#### **Voluntary payment of taxes**



Where the payer of taxes was not liable for these taxes but did pay them "in an effort to clear the title", the payment may not have been erroneous but made voluntarily. Op.Atty.Gen. No. 94-0434, Hollimon, Aug. 11, 1994.

### **Assessment rolls**

The city taxes are predicated on assessment rolls provided to the city by the county. There is no authority to refund taxes that have been properly paid according to that roll, absent an order of the Board of Supervisors changing the assessment roll. Op.Atty.Gen. Smith, Jan. 8, 1992.

### **Overassessments of property**

Section 27-73-7 contemplates the refund of tax overpayments which have not been settled by the tax collector and does not have application to a refund request arising out of an overassessment of property. Op.Atty.Gen. Haque, May 17, 1989.

### **Fund from which refund to be paid**

If taxes are erroneously paid, the tax collector has the authority to refund said erroneously paid taxes from the same fund in which the erroneously paid taxes were deposited, or from the general fund if that fund no longer exists. Op.Atty.Gen. No. 95-0776, McKenzie, Nov. 22, 1995.

Statute requires reimbursement from current year collections allocated, i.e., deducted from the next settlement, on a pro rata basis among all funds supported via ad valorem tax collections; in the event any fund no longer exists, the pro rata share of such must be made from the general fund. Op.Atty.Gen. Griffith, July 5, 1990.

The Warren County Board of Supervisors may either receive direct reimbursement from the City of Vicksburg and from the Vicksburg Warren School District, or may deduct the pro rata share of the 2009 refunds due to taxpayers, as a result of the Board's decision to reduce the 2009 assessment for real and personal property, against the current monthly settlements due to the City and the School District until each entity's pro rata share is recovered. Op.Atty.Gen. No. 2010-00526, Sherard, September 17, 2010, 2010 WL 4105486.

### **Distribution of funds**

The Warren County Board of Supervisors may either receive direct reimbursement from the City of Vicksburg and from the Vicksburg Warren School District, or may deduct the pro rata share of the 2009 refunds due to taxpayers against the current monthly settlements due to the City and the School District until each entity's pro rata share is recovered. Op.Atty.Gen. No. 2010-00526, Sherard, Oct. 7, 2010, 2010 WL 4720295.

### **Credit against future taxes**

A county board of supervisors may treat the overpayment of taxes by as early payment of future taxes. However, these funds must be held in a specially dedicated account and would not be subject to expenditure by the county. This, of course, is dependent upon whether the corporate taxpayer is agreeable to having the overpayment handled in this manner. Op.Atty.Gen. No. 2000-0655, Leggett, November 27, 2000.

### **Method of payment**

Where a current landowner did not receive tax statements on the improvements-only parcel of his property and the 1998, 1999 and 2000 taxes were sold at tax sales and the sales were later declared void, there is no authority for a county to contract with a landowner to allow for installment payments for the 1998, 1999 and 2000 taxes. Op.Atty.Gen. No. 2002-0485, Yancey, September 6, 2002.

### **Interest**

Where a Clerk's conveyance on an improvements only parcel may be set aside as improper, the purchaser of lands sold at a void tax sale is entitled to receive as a refund an amount equal to the purchase price paid at the tax sale. There is no provision authorizing the payment of interest to such purchaser, except that portion of the purchase price which represented interest due on the taxes due prior to the tax sale. Op.Atty.Gen. No. 2002-0485, Yancey, September 6, 2002.

Purchaser of property at an erroneous tax sale is entitled to receive a refund of the amount paid at the tax sale but is not entitled to receive interest. Op.Atty.Gen. Cole, August 16, 1990.

### **Protests**

A taxpayer desiring to dispute a tax assessment or levy, but not wanting to incur the statutory penalties and interest, may utilize the provisions of Section 27-73-7 and pay under protest the taxes to be contested. Op.Atty.Gen. No. 99-0286, Hollimon, June 18, 1999.

**Property sold in error**

Where a county tax collector did not receive notice of a 2001 bankruptcy filing, and thus did not withhold a property from a tax sale, a board of supervisors may authorize a refund for overpayment of interest and penalties that accrued after the date of the filing and which have been paid through redemption of the tax sale. Op.Atty.Gen. No. 2004-0239, Hollimon, July 16, 2004.

**Homestead exemption**

If the board of supervisors finds that the assessment of 2002 taxes was in error due to a 2001 bankruptcy filing and void tax sales, the board may refund the difference in the amount actually paid for the 2002 taxes versus the amount that would have been paid if the property had properly been assessed as Class 1 property with homestead exception. Op.Atty.Gen. No. 2004-0239, Hollimon, July 16, 2004.

Where taxpayer had previously claimed homestead exemption but was not allowed that claim because taxpayer had not complied with state income tax laws, taxpayer, after two years, complied with the income tax laws and had been so certified by the state tax commission, and the taxpayer asked for a refund for the years when he was denied the exemption, the taxpayer did not meet the qualifications for homestead exemptions in the years in question and was not entitled to a refund of taxes for the taxes paid; however, for the current year, the taxpayer was entitled to have homestead approved, which would have the effect of lowering the taxes the taxpayer would pay on the 1990 ad valorem taxes due by February 1, 1991. Op.Atty.Gen. Batey, August 29, 1990.



2007 WL 1725176 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

Opinion No. **2007- 00212**

April 27, 2007

**Re: Erroneously Paid Taxes**

\*1 Anthony E. Nowak, Esquire  
Attorney for DeSoto County  
Board of Supervisors  
Post Office Box 346  
Hernando, Mississippi 38632

Dear Mr. Nowak:

Attorney General Jim Hood received your letter of request and assigned it to me for research and reply. Your letter states: As the Board Attorney for the DeSoto County Board of Supervisors, I have been directed to write to you regarding the County's ability to refund erroneously paid ad valorem property taxes. Factually, the DeSoto County Board of Supervisors is facing an instance where the tax assessor erroneously assessed a parcel of property. As a result of the erroneous tax assessment, a landowner paid substantially more for property taxes than he should have for a period of years. For the years 1999-2005, this landowner paid \$6,110.25 in ad valorem real property taxes when he should only have paid \$665.16. The error was solely the result of an erroneous assessment and not the result of any mistakes on behalf of the landowner.

Mississippi Code Annotated Section 27-73-7 permits a tax collector to refund ad valorem taxes that have been paid in error. This particular statute does not set a limit upon the number of years for which a tax assessor may go back in calculating the appropriate refund. Mississippi Code Annotated Section 27-73-5, however, provides for a three (3) year statute of limitation for any suits or applications filed for a refund. Further, your office has opined on a number of occasions that a tax assessor is limited to refunding erroneously paid taxes for a period of three (3) years back from the date of application or suit. However, in this instance, the DeSoto County Board of Supervisors has noted the error and wishes to voluntarily refund the overpayment without application or suit having been made. The Board wishes to know whether or not this creates any difference as to the number of years for which it may refund erroneously paid taxes. Thus, my question to you is as follows:

In a case where an error is made in at tax assessment by a county tax assessor, and the tax assessor identifies its error, can the County, on its own motion, refund erroneously paid taxes for a period of time more than three (3) years?

We have previously opined that where a taxpayer has paid through error or otherwise a sum in excess of the taxes properly due, the tax collector is authorized, on order of the board of supervisors, to refund such erroneous payment. We have further said that in those cases the taxpayer must apply or petition for such refund and that the three-year statute of limitation applies (Section 15-1-49). *MS AG Op., Reynolds (October 4, 1996)*; *MS AG Op., Griffith (September 12, 2003)*. It is also our opinion that such refunds may be made upon the motion of the board of supervisors, but that the three-year statute of limitations would still apply and cannot be waived.

Sincerely,

\*2 Jim Hood  
Attorney General

By: Phil Carter  
Special Assistant Attorney General

2007 WL 1725176 (Miss.A.G.)

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West's Annotated Mississippi Code

Title 27. Taxation and Finance

Chapter 45. Ad Valorem Taxes--Redemption of Land Sold for Taxes

Miss. Code Ann. § 27-45-15

§ 27-45-15. Sale after erroneous payment

Currentness

Land on which said person had paid on by mistake, shall be sold for the taxes and costs, the payment of which, except for mistake, it had escaped, as follows: The chancery clerk shall notify the tax collector of his release of the land first sold and the collector shall immediately give notice in writing to the person in possession of the land paid on by mistake, if any, or to the owner or person claiming it, that at a meeting of the board of supervisors of the county, to be designated in such notice, he will apply for an order to sell said land because of the foregoing facts. At such meeting, the collector shall report the facts in writing to the board of supervisors, and that he has given notice as above required, and said board shall hear any objection to the proposed sale of such land, and unless there be some valid objection shall order it to be sold. Thereupon the collector shall advertise it as sales of land for taxes are required to be advertised, and shall sell it on some day when it is lawful to sell land under execution in his county, and shall proceed in all respects as required in making sales of land for taxes on the first Monday of April. He shall report the lists of lands so sold to the clerk of the chancery court in the same manner and within the same relative time as provided for sales of land for taxes at the usual time. He shall pay over to the proper officers the taxes collected from sales to individuals as in other cases.

Miss. Code Ann. § 27-45-15, MS ST § 27-45-15

Current through End of 2012 Regular Session

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End of Document

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