



June 26, 2020

David B. Miller, Esq.  
Attorney for the Forrest County Board of Supervisors  
Post Office Box 1310  
Hattiesburg, Mississippi 39403

Re: Waiver of Penalties and Interest on Unpaid Taxes

Dear Mr. Miller:

The Office of the Attorney General is in receipt of your request for the issuance of an official opinion.

### **Question Presented**

Are there exceptions to the rule provided by Miss. Code Ann. Section 27-41-11 requiring the payment of penalties and interest on delinquent taxes?

### **Background Facts**

A county taxpayer received and paid a notice of taxes due on a parcel of property which adjoined his property due to a county error in maintaining the land roll. Since the taxpayer did not own the parcel, the county refunded the taxpayer the tax payment made in error.

The taxpayer has requested a refund of the penalties and interest paid by the taxpayer on the delinquent taxes which accrued upon his own property, for which he claims he received no notice of taxes due or of delinquency and which he would have timely paid but for the county's error in assessing the wrong parcel.

### **Brief Response**

Yes. If the Board of Supervisors determines that an error was made by the tax assessor in not

having properly assessed the taxpayer for the correct parcel of real property, then the Board would have the authority to determine that the property owner does not owe penalties and interest for the unpaid taxes.

### **Applicable Law and Discussion**

The assessment of penalties and interest for nonpayment of taxes is authorized by Miss. Code Ann. Section 27-41-11, which provides as follows:

It shall be the duty of every person assessed with state, county, school, road, levee and other taxing district and municipal ad valorem taxes to pay all such taxes to the tax collector on or before the due dates fixed and prescribed in Section 27-41-1 hereof, and if not paid, it shall be the duty of the tax collector to enforce payment thereof as hereinafter provided. If any person fails or neglects to pay the taxes levied and assessed against him as provided in this chapter on or before the due date fixed in Section 27-41-1 of this chapter, he shall be required to pay, in addition to the amount of taxes then due, all other fees, penalties and costs prescribed by law for failure to pay taxes when due, and in addition to the interest prescribed in Section 27-41-9 of this chapter.

We have consistently opined that a board of supervisors has the authority to determine that a property owner does not owe penalties and interest for unpaid taxes under Section 27-41-11, when an error by the tax assessor resulted in the owner not having been assessed. MS AG Op., *Slover* (May 15, 2015); MS AG Op., *Mangum* (May 11, 2012); MS AG Op., *Martin* (June 10, 2011); MS AG Op., *Yancey* (August 07, 2009); MS AG Op., *Dulaney* (December 12, 2008).

In your factual scenario, the taxpayer was erroneously assessed for the parcel of property adjoining his. It is the opinion of this office, that the Board of Supervisors would be authorized to determine that the property owner does not owe penalties and interest for unpaid taxes under Section 27-41-11, when an error by the tax assessor resulted in the owner's delinquency of the tax payment. Any such penalties and interest having been paid may be refunded to the taxpayer.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Avery Mounger Lee

Avery Mounger Lee  
Special Assistant Attorney General