

SUPREME COURT OF LOUISIANA

No. 96-C-1711 c/w No. 96-C-2455

COMM-CARE CORPORATION

Versus

LOUISIANA TAX COMMISSION ET AL

LEMMON, J., Dissenting

The only time limitation contained in La. Rev. Stat. 47:2110, the statute governing payment under protest, is the requirement that suit be filed within thirty days of the payment under protest. No other statute has been pointed out to us that provides any other period of limitation on the payment under protest procedure.

La. Rev. Stat. 47:2101A(1), relied on by the majority, provides only that taxes are due by December 31 in order to avoid enforcement proceedings. There is no requirement of payment by December 31 in order to avoid loss of the right to pay under protest. It would have made perfect sense for the Legislature to provide such a limitation, but the Legislature in fact did not do so.

Since ambiguous statutes should be construed in favor of the taxpayer, I dissent from the broad construction that imposes a limitation on the taxpayer which the Legislature did not provide.