



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

December 18, 2000

W. Kurt Taylor, Deputy County Attorney
County of Charleston
O. T. Wallace Office Building
2 Courthouse Square, Room 401
Charleston, South Carolina 29401-2266

RE: Informal Opinion

Dear Mr. Taylor:

By your letter of December 7, 2000, you have requested an opinion of this Office concerning funds released by the Office of the Comptroller General for use by the counties for personal property tax relief. You inform us that the Comptroller General notified the counties that only ten million dollars of the twenty million dollars credited to the Personal Property Tax Relief Fund would be released to the counties in January. The remaining ten million dollars is expected to be released mid-year. Based on this information, you have asked:

- 1) [M]ay the County apply only 50% of the estimated annual personal motor vehicle tax relief amount to the tax bills issued during the upcoming year, due to the uncertainty of the remaining-50%?
- 2) [I]f the remaining 50% is released by mid-year, may the County apply it as a credit to the following year's tax bill?

In 1999, the General Assembly established the Personal Property Tax Relief Fund in order to reduce ad valorem taxes on motor vehicles. See S. C. CODE ANN. § 12-37-2735. Twenty million dollars must be deposited annually into the Fund to make allocations to the counties that are ultimately passed on to the taxpayer. As for the specifics of the allocation, the statute only provides:

The monies credited to the Personal Property Tax Relief Fund must be allocated annually to separate county accounts, one each established in the name of the forty-six counties. The monies must be divided and allocated to the various county accounts based on a ratio equal

W. Kurt Taylor, Deputy County Attorney
December 18, 2000
Page 2

to the total number of personal motor vehicles registered in a county divided by the total number of personal motor vehicles registered statewide at the close of the preceding calendar year or fiscal year as determined by the State Treasurer. *The allocation drawn from the fund must be used for the exclusive purpose of reducing the ad valorem tax on personal motor vehicles and must be distributed to eligible persons in an equitable manner based on the fair market value of the vehicle.*

S. C. CODE ANN. § 12-37-2735 (B)(emphasis added).

The statute requires that the counties distribute the monies "to eligible persons in an equitable manner..." The County's plan to apply only 50% of the tax relief monies during the upcoming year and credit the remaining 50% for the following year does not appear to be an unreasonable allocation of the funds. The actual amount to be released to each county has been determined, so presumably the County can calculate the upcoming year's distributions to each taxpayer. As long as the County's allocation plan results in each taxpayer eventually receiving his pro rata share of this year's relief monies, then the County seems to be in compliance with the statute. Of course, the County could credit the entire amount of the relief to this year's tax bills in anticipation of the mid-year release of funds, but the statute does appear to give the counties some discretion in allocating the funds as long as they are distributed "in an equitable manner."

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Susannah Cole
Assistant Attorney General