



HENRY McMASTER
ATTORNEY GENERAL

April 9, 2009

The Honorable Dick Elliott
Member, South Carolina Senate
Post Office Box 142
Columbia, South Carolina 29202

Dear Senator Elliott:

We understand you desire advice from this Office as to whether any "local government, city or county, under the existing South Carolina Code can levy a sales tax."

Law/Analysis

In our research, we did not discover any provision of South Carolina law allowing municipalities to levy a sales tax. However, several provisions in chapter 10 of title 4 of the South Carolina Code (Supp. 2008) allow counties to impose local opinion sales taxes. Sections 4-10-10 et seq. of the South Carolina Code (Supp. 2008) allows counties to impose a sales and use tax of one percent, the proceeds of which are used to allow for a credit against county and municipal property taxes. To impose the tax, the county's governing body must gain approval of a majority of the electors in the county who vote in the referendum. S.C. Code Ann. § 4-10-30. The proceeds from the sales tax are divided according to section 4-10-40 of the South Carolina Code between the county and the municipalities located within the county.

Sections 4-10-300 et seq. of the South Carolina Code (Supp. 2008) allows counties to levy a one percent sales and use tax by ordinance upon approval of the electorate by referendum to fund the cost of constructing certain specified capital projects. The proceeds from the tax can only be used to service the debt on bonds issued to pay for the authorized projects and the tax is imposed for a limited amount of time. S.C. Code Ann. § 4-10-310.

Sections 4-10-510 et seq. of the South Carolina Code (Supp. 2008) allows counties to exempt certain personal property from property taxation and to replace the revenue lost by such an exemption with a sales and use tax. The sales and use tax can range from one tenth of one percent to two percent. S.C. Code Ann. § 4-10-540. The imposition of this sales and use tax must also be approved by referendum. S.C. Code Ann. § 4-10-550.

Sections 4-10-720 et seq. of the South Carolina Code (Supp. 2008) permits counties to pass an ordinance levying a sales and use tax to be used as a credit against property taxes imposed either by the county or a school district located within the county. The tax can range from one tenth of one percent to one percent. S.C. Code Ann. § 4-10-730. Again, the ordinance must be approved by referendum. S.C. Code Ann. § 4-10-740.

In addition to the provisions found in chapter 10 of title 4, chapter 37 of title 4 contains an additional means by which a county can impose a sales and use tax for the purpose of funding transportation facilities. S.C. Code Ann. §§ 4-37-10 et seq. (Supp. 2008). The amount of the tax cannot exceed one percent and must be for imposed for a specified amount of time not to exceed twenty-five years. S.C. Code Ann. § 4-37-30. The imposition of this tax must also be approved by referendum. Id.

Conclusion

While we were unable to find any general law allowing a municipality to levy a sales and use tax, we found provisions in chapters 10 and 37 of title 4 specifically allowing counties to impose such a tax. However, we caution that the provisions in these statutes place specific requirements on counties wishing to impose such a tax. Thus, we suggest a county imposing a local option sales and use tax follow the provisions in these statutes carefully.

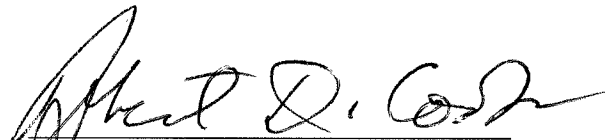
Very truly yours,

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