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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

September 10, 2001

The Honorable Cyrus Spradley  
Aiken County Auditor  
P.O. Box 94  
Aiken, South Carolina 29802

**RE: Informal Opinion**

Dear Mr. Spradley:

By your letter of August 3, 2001, you have requested an opinion of this Office concerning the registration and taxation of motor vehicles operated in South Carolina but owned by a resident of another state. By way of background, you provide the following information:

... an Aiken county taxpayer, through an attorney, has contacted this office requesting clarification regarding his particular situation. This individual is an Aiken county resident and has been a legal resident for several years. He is employed in this county and he and his wife own their home. However, they are driving a vehicle that belongs to a relative who is a resident in another state and the vehicle is registered in that state (Tennessee) to that individual. ... My position is that they are residents of this state and the car has been here for an accumulated period exceeding one hundred and fifty days and is taxable as a result of its being situated here.

South Carolina Code of Laws Section 56-3-110 requires every motor vehicle "driven, operated or moved upon a highway in this State" to "be registered and licensed in accordance with the provisions of ... [chapter 3 of Title 56]." Chapter 3 does, however, contain exemptions from registration for certain vehicles. Section 56-3-150 provides:

A foreign privately-owned-and-operated passenger vehicle of a nonresident, otherwise subject to registration and license under the provisions of this chapter may be operated within this State without being registered and licensed under the provisions of this chapter, subject to the conditions that the vehicle is at all times, when operated in this State, duly registered or licensed in the state, territory, district, or country of residence of the owner and that there is displayed thereon a valid

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registration card and registration or license plate or plates. *The vehicle of a nonresident must be registered and licensed pursuant to this chapter upon the earlier of a nonresident's:*

- (1) subsequent establishment of domicile in this State, or
- (2) *operation of the vehicle in this State for an accumulated period exceeding one hundred fifty days.* (Emphasis added).

On its face, the exemption applies to the circumstances you describe. The automobile is a privately-owned-and-operated passenger vehicle owned by a nonresident of South Carolina. Although operated in South Carolina, it is duly registered in Tennessee, the state of residence of the owner. Apparently, the automobile displays a Tennessee license plate, and those driving it can produce a valid registration. Thus, the residents of Aiken County would not be required to register the vehicle in this state.

The second sentence of Section 56-3-150 limits this exemption and require registration upon the earlier of two events. However, I am not convinced that the limitations apply in this case. You inform me that the residents in Aiken have operated the vehicle in South Carolina for more than one hundred fifty days. However, Section 56-3-150 requires that the vehicle must be registered upon the *nonresident's* operation of the vehicle for one hundred fifty days. "Non-resident" appears to be an element of both subsection (1) and (2). As you describe in this case, the non-resident, who lives in Tennessee, has not operated the vehicle in South Carolina for that period of time. Thus, strictly construing the plain language of the statute, the second sentence of Section 56-3-150 would not apply.

Another provision of law, however, probably applies to require the motor vehicle's tax situs in Aiken County. Section 12-37-890 states, in part:

... All other personal property shall be returned for taxation and taxed at the place where the owner thereof shall reside at the time of listing the same, if the owner reside in this State; if not, at the residence of the person having it in charge.

In an opinion of this Office, dated December 2, 1969, we reasoned from this provision that "taxation of personal property is not wholly dependent upon the owner being a legal resident of South Carolina." OP. ATTY. GEN. 2805. In that opinion, we addressed whether motor vehicles belonging to individuals who reside in and operate vehicles in South Carolina but maintain the vehicle's registration in a foreign state are taxable in South Carolina. We concluded that even though the owners paid taxes on the vehicles in their home states, the vehicles were nonetheless subject to taxation by South Carolina's local governmental entities by virtue of their "more or less permanent" location in this state.

This reasoning applies, as well, to the instant case. Section 12-37-890 provides for the

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taxation of property located at the residence of the person having it in charge when the owner is not a legal resident of this state. According to your information, the Aiken residents have the car in their charge more or less permanently, although the owner resides in Tennessee. Pursuant to Section 12-37-890, the motor vehicle would thus acquire a tax situs in Aiken County for ad valorem taxation.

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