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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

March 23, 1998

Michael L. Horton
Assistant Comptroller General
Office of Comptroller General
P.O. Box 11228
Columbia, South Carolina 29211

Re: Informal Opinion

Dear Mr. Horton:

Your opinion request has been forwarded to me for reply. You have advised this Office of the following:

This office [Office of Comptroller General] is required to remit payments to counties and municipalities four times a year pursuant to the provisions of Section 12-37-450, S.C. Code of Laws, 1976 as amended. In 1987 and subsequent years, the Town of City View received such payments. We are advised that this town has disbanded and is no longer a political entity of this state.

You have asked for this Office's opinion on the following:

One could reason that because this section [12-37-450] was to reimburse political subdivisions in the future for taxes lost by granting the exemption, that there is no loss when the entity ceases to exist and is not annexed, thus, the state would not disburse any funds on that account. Is that a correct assumption? If this is a correct assumption and that area is

request letter

incorporated in the future, would funding at the 1987 rate then resume at that time?

In regards to your first question, Section 12-37-450 provides that the inventory of business establishments shall be exempt from property taxation as set forth in the section. The exemption is conditional upon the appropriation by the State to the municipalities and counties for each year an amount equal to tax revenue not collected by reason of the exemption. S.C. Code Ann. § 12-37-450(A). Counties and municipalities must be reimbursed for the revenue lost as a result of the business inventory tax exemption based on the 1987 tax year millage and the 1987 tax year assessed value of inventories in the counties and municipalities. S.C. Code Ann. § 12-37-450(B). Notwithstanding amounts appropriated for the inventory tax exemption reimbursement, there is appropriated annually from the general fund of the State whatever amount is necessary to reimburse fully all counties and municipalities the required amount. *Id.* The Comptroller General shall make remittances of this reimbursement to counties and municipalities in four equal payments. *Id.*

Dissolution of a municipal corporation takes away all of its rights, liberties, privileges and franchises. McQuillion, Municipal Corporations, § 8.14. The effect of dissolution is to completely extinguish and annihilate the artificial municipal body which had theretofore existed; or differently stated, its effect was the immediate death of the artificial being, followed by all which the law annexes to such a death. Dodge v. People, 113 Ill. 491, 1 N.E. 826 (1885).

In interpreting a statute, the primary purpose is to ascertain the intent of the Legislature. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988). The court must apply the clear and unambiguous terms of the statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991).

It appears that the General Assembly's intent in enacting Section 12-37-450 was to provide a method to reimburse the counties and municipalities for the revenue lost by not imposing the tax on business inventory. Here, the Town of City View no longer exists and those powers which it once possessed, including the power to tax, no longer exist. Since there is no municipality, it follows that there is no municipality which loses

Michael L. Horton
Page 3
March 23, 1998

revenue by not imposing the tax on business inventory and no municipality to reimburse. Accordingly, the statute, which by its very terms provides that a municipality is to be reimbursed for the revenue lost by not imposing the tax, would not apply in this case. I agree with your assessment that "there is no loss when the entity ceases to exist and is not annexed" It is my understanding that upon dissolution, the area which comprised the former Town of City View became a part of the unincorporated area of Greenville County. Therefore, this area would be treated under Section 12-37-450 in a fashion similar to those other unincorporated areas of the County.

In regards to your second question, pursuant to Office policy, we will not answer hypothetical questions in a legal opinion. South Carolina Attorney General, Office Manual, p.49. If and when this actual situation arises, this Office will be happy to provide an answer to your question.

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 questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General