

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

October 28, 1987

SUBJECT: Taxation and Revenue - Distribution of Class "A" Accommodations Tax Revenue.

SYLLABUS: The first twenty-five thousand dollars received by a municipality in each fiscal year from the accommodations tax is allocated to the municipality's general fund under Sections 12-35-710 and 12-35-720.

TO: William W. Dreyfoos, Esquire  
City Attorney, Isle of Palms

FROM: Joe L. Allen, Jr. *JA*  
Chief Deputy Attorney General

QUESTION: Is the first twenty-five thousand dollars received by a municipality from the accommodations tax in each fiscal year allocated to its general fund or is this a one time allocation?

APPLICABLE LAW: Section 12-35-720, Code of Laws of South Carolina, 1976.

DISCUSSION:

The distribution of the accommodations tax to municipalities is on a quarterly basis. Section 12-35-710. It, however, has been the established requirement in this state that budgets and expenditures therefrom be on an annual basis. Such is the requirement of Article X, Section 7 of the South Carolina Constitution. The applicability of this settled requirement to the appropriation and expenditure of the accommodations tax is reflected in Section 12-35-720. A budget and an accounting is required for class B funds for each fiscal year. The appropriation and expenditure of the class "A" funds must likewise be on an annual basis as required by Article X, Section 7. An annual accounting is also required by Section 5-7-240 of the Code.

In addition this office is advised that it has been the accepted interpretation of the statute that the first twenty-five thousand dollars from the accommodations tax

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received by the municipality in each fiscal year is allocated to the general fund. That interpretation is entitled to weight and consideration.

"Although legislative construction is not necessarily controlling, there is strong presumption that it is correct and should be adopted by the court." Sadler v. Lyle, 254 S.C. 535, 176 S.E.2d 290. (For other cases, see 17 S.C.D., Statutes, Key 220).

It is thus logical to conclude that the class "A" accommodations tax is to be included in the budgetary process of the municipality each fiscal year.

CONCLUSION:

The first twenty-five thousand dollars received by a municipality in each fiscal year from the accommodations tax is allocated to the municipality's general fund under Sections 12-35-710 and 12-35-720.

JLAJR/jws