

1982 S.C. Op. Atty. Gen. 8 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-5, 1982 WL 154975

Office of the Attorney General

State of South Carolina

Opinion No. 82-5

February 12, 1982

**\*1 SUBJECT: Income Tax—Exclusion of Two Hundred Dollars of Salary to Teachers Employed by the Department of Youth Services.**

The two hundred dollar exclusion from income granted by [§ 12-7-590 of the 1976 Code](#) to teachers paid by a school district is not available to teachers paid by the Department of Youth Services because the Department of Youth Services is not a school district within the meaning of [§ 12-7-590](#) since the Department is not a complete tax unit and is not limited to solely providing free school education.

TO: Mr. A. B. Taylor  
Director  
Income Tax Division  
South Carolina Tax Commission

QUESTION:

Is two hundred dollars of the salary paid by the Department of Youth Services to school teachers in its employ subject to the provisions of [§ 12-7-590 of the 1976 Code](#)?

APPLICABLE LAW:

[§§ 12-7-590, 20-7-3240, 59-1-160 and 59-73-30, 1976 Code of Laws of South Carolina](#), as amended.

DISCUSSION:

[Section 20-7-3240](#) states that the Department of Youth Services is designated as a special school district to operate an education program at the Reception and Evaluation Center, Birchwood High School, Willow Lane Junior High School and all other institutions operating under the Department. [Section 12-7-590](#) grants an annual two hundred dollar exemption from taxable income to teachers whose salary is 'paid by [a] school district in the State'. Thus, if the salary paid by the Department of Youth Services to its teachers is a salary paid by a school district, the two hundred dollar exclusion is available. The question, therefore, becomes one of deciding whether the designation of the Department of Youth Services as a special school district is within the meaning of a school district under the exclusion statute of [§ 12-7-590](#).

The term 'school district' is defined in [§ 59-1-160](#) as:

'School district' means any area or territory comprising a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.'

The important language is that requiring the area to constitute a complete tax unit and having as its sole purpose providing free school education.

In order for the Department of Youth Services to satisfy the definitional requirement of a school district, there must be the power to levy and collect tax as a 'complete tax unit'.

[Section 59-73-30](#) states:

'The voters or electors of any school district who return real or personal property for taxation may levy and collect an annual tax to supplement any special or other tax for like purposes in the manner herein provided.'

Thus one of the powers of a school district is to levy a tax. There is no indication that the statute which designated the Department of Youth Services a special school district granted the power to levy taxes. In fact, the Department of Youth Services derives its funds from the general revenue as appropriations from the General Assembly. Such being the case, the Department of Youth Services is not a 'complete tax unit' and not within the definition of a school district required for the exclusion granted under [§ 12-7-590](#).

\*2 To come within the definition of a school district, the entity's sole purpose must be that of providing free school education. The Department of Youth Services is not limited to solely providing free school education since it carries on other functions such as the housing and rehabilitation of persons referred to or committed to its custody. Since the Department is not limited solely to providing free school education, no exclusion is available under [§ 12-7-590](#).

Further support for this conclusion is that an exemption from taxation will be strictly construed in favor of the state and taxation and against the taxpayer and exemption. See [York County Fair Association v. South Carolina Tax Commission](#), 249 S. C. 337, 154 S. E. 2d 361. Applying the requirements of strict construction requires the conclusion that no exclusion is available to teachers paid by the Department of Youth Services.

#### CONCLUSION:

The two hundred dollar exclusion from income granted by [§ 12-7-590 of the 1976 Code](#) to teachers paid by a school district is not available to teachers paid by the Department of Youth Services because the Department of Youth Services is not a school district within the meaning of [§ 12-7-590](#) since the Department is not a complete tax unit and is not limited to solely providing free school education.

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