

1981 S.C. Op. Atty. Gen. 38 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-21, 1981 WL 96547

Office of the Attorney General

State of South Carolina

Opinion No. 81-21

March 16, 1981

**\*1 SUBJECT: Property Tax—The Repeal of Exemptions by [Article X, Section 3 of the South Carolina Constitution](#) and whether Certain Inventory of Farm Implement Dealers Is Now Exempt From Taxation.**

(1) [Article X, Section 3 of the South Carolina Constitution](#) repealed the exemption from property taxation of certain agricultural machinery that was provided by [§ 12–37–920 of the 1976 Code](#).

(2) Farm machinery and equipment, when part of the inventory of a dealer or seller of such property, are not exempt from property taxation.

TO: Honorable Ramon Schwartz, Jr.  
Speaker of the House of Representatives  
State of South Carolina

QUESTIONS:

1. Was [Section 12–37–920 of the 1976 Code](#) repealed by [Article X, Section 3 of the South Carolina Constitution](#)?
2. Does [Section 12–37–220B\(14\)](#) presently exempt agricultural machinery, equipment and implements that had been exempted by [Section 12–37–920](#) prior to its repeal?

APPLICABLE LAW:

[Article X, Section 3](#) of the South Carolina Constitution, [Sections 12–37–220B\(14\)](#) and [12–43–220\(b\)](#), 1976 Code of Laws.

DISCUSSION:

Question 1. The [section, 12–37–920](#), was enacted in 1970 by Act 1072. The effect of the statute was to exempt from taxation certain agricultural machinery. The machinery was exempt if it was a part of a dealer's inventory that had been included and taxed in the dealer's inventory for some previous year.

[Article X, Section 3 of the Constitution](#) provides in part that:

‘All exemptions not specifically provided for or authorized in this Article shall be repealed March 1, 1978.’

The exemption provided by the 1970 Act, [§ 12–37–920](#), was thus repealed as of March 1, 1978.

CONCLUSION:

[Article X, Section 3 of the South Carolina Constitution](#) repealed the exemption from property taxation of certain agricultural machinery that was provided by [§ 12–37–920 of the 1976 Code](#).

Question 2. Section 12-37-220B(14) exempts from taxation:

‘All farm machinery and equipment except self-propelled farm machinery and equipment and motor vehicles licensed for use on the highways. All self-propelled farm machinery and equipment, excluding motor vehicles licensed for use on the highways, eligible for taxation shall be taxed on its fair market value, provided that fair market value shall be determined by reducing the original cost by an annual depreciation allowance of 20 percent. The full year depreciation shall be allowed in the year of acquisition.

For the purpose of this section the term ‘self-propelled farm machinery and equipment’ shall mean farm machinery and/or locomotion.’

The application of this section is governed by settled rules of construction. A tax exemption statute is subject to a strict construction with doubt resolved against the exemption and in favor of the tax.

‘Statutes granting exemptions from taxation are ordinarily construed strictly against claimed exemption.’ [In re Marlow, 269 S.C. 219, 237 S.E.2d 57.](#) (For other cases see 17 S.C.D., [Taxation](#), Key 204.)

\*2 Under such, it is the opinion of this office that farm machinery and equipment is not exempt from taxation when a part of the inventory of a business establishment.

It has been the long established practice of the Tax Commission to include within the taxable inventory of farm implement dealers the value of all farm implements and machinery. Such continued until modified in 1970 by Act 1072, subsequently codified as [§ 12-37-920](#). Since 1970 the value of all of the farm machinery and equipment of dealers is included as a part of the inventory except that as exempted by the Act.

We do not find a legislative intent in [§ 12-37-220B\(14\)](#) to now provide for an exemption for inventory of farm machinery and equipment dealers. To do so would be to find that all of the inventory that constitutes farm machinery and equipment except that which is self propelled is now exempt. This would not be consistent with the former [§ 12-37-920](#) in that only a limited part of the inventory was then exempt.

Additionally, under [§ 12-37-220B\(14\)](#), the value of self propelled farm machinery is determined by the cost less a twenty percent deduction each year for depreciation. If this included the inventory of a farm implement dealer, discrimination would exist within the class of property subject to taxation. The value of the inventory of a merchant is determined by Tax Commission [Regulation 117-109](#), Volume 27 of the 1976 Code. The allowance for depreciation there provided is one percent of cost per annum. We do not know of any justification for the difference in the allowance of nineteen percent of costs for self propelled farm machinery inventory when compared with the inventory of other merchants. In the absence of such, this office would not interpret [§ 12-37-220B\(14\)](#) to apply to the inventory of a farm implement dealer. This conclusion is fortified by [§ 12-43-220\(b\)](#) that provides:

‘All inventories of business establishments shall be taxed on an assessment equal to six percent of the fair market value of such property and all power driven farm machinery and equipment except motor vehicles registered with the South Carolina Highway Department owned by farmers and used on agricultural lands as defined in this article shall be taxed on an assessment equal to five percent of the fair market value of such property; provided, that all other farm machinery and equipment and all livestock and poultry shall be exempt from ad valorem taxes.’

The language there specifically distinguishes ‘power driven farm machinery and equipment’ when owned by a merchant and when ‘owned by farmers and used on agricultural lands.’

Further, to apply the language of § 12-37-220B(14) to inventory of a business establishment would result in the exemption of all motor vehicles unless licensed for use upon the highways.

The inclusion of motor vehicles reflects legislative intent that the section applies only to farm machinery owned by farmers. If such were not the case, then the inventory of all motor vehicle dealers would be exempt when not licensed for use upon the highways.

CONCLUSION:

\*3 Farm machinery and equipment, when part of the inventory of a dealer or seller of such property, are not exempt from property taxation.

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