

1981 S.C. Op. Atty. Gen. 89 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-63, 1981 WL 96589

Office of the Attorney General

State of South Carolina

Opinion No. 81-63

July 6, 1981

***1 SUBJECT: Property Tax—Exemption of New Manufacturing Plants from County Taxes**

Under settled rules of construction that an interpretation in favor of the constitutionality of the statute is required, it is thus the opinion of this office that § 4–9–39 does not conflict with Article X, § 3(g). The opinion is based upon the interpretation that the library tax does not apply to that property exempt by [Article X, § 3\(g\) of the South Carolina Constitution](#). An interpretation that would render such property subject to the library tax necessarily results in the statute's being unconstitutional.

TO: Honorable J. Verne Smith
Senator
District No. 2

QUESTION:

Does § 4–9–39 that provides authority to the governing body of a county to levy a property tax for the support of a county library system conflict with [Article X, § 3\(g\) of the South Carolina Constitution](#)?

APPLICABLE LAW:

[Article X, § 3\(g\)](#), §§ 12–37–220A(7) and 4–9–39 of the 1976 Code of Laws.

DISCUSSION:

Article X, § 3(g) exempts new manufacturing establishments and certain additions to existing manufacturing plants from county property taxation. The language as here involved is as follows:

‘* * *. Provided, however, that the exemptions authorized in this item for manufacturing establishments and additions thereto shall not include exemptions from school taxes or municipal taxes, but shall include only county taxes.’

This constitutional provision is codified as § 12–37–220A(7).

By Act 564, Acts of 1978, the General Assembly required the governing body of a county to fund the operation of a library. The governing body by specific language was given the authority to levy a property tax for the support of the library. A part of the Act now codified as § 4–9–39 provides in part that:

‘If any county council levies a tax specifically for the support of a county public library system, such tax shall apply to all persons and corporations subject to school taxes.’

The question is thus whether this provision is in conflict with Article X, § 3(g). The General Assembly cannot subject to taxation that property which is by constitutional provision exempt from such taxation. [Strong v. Sumter, 185 S.C. 203, 193 S.E. 649,](#)

[Wofford College Trustees v. Spartanburg](#), 201 S.C. 315, 23 S.E. 9. The library tax is by statutory declaration a county tax. Section 4-9-35 provides in part that:

‘County library systems created by such ordinances shall be deemed a continuing function of county government * * *.’

A school tax has been defined by the Court to be:

‘We hold in order to qualify for an exemption as a school purpose or tax, the entity for which the tax is levied must be predominantly concerned with schooling.’ [Hollingsworth on Wheels, Inc. v. Greenville County Treasurer](#), Opinion 21453, May 18, 1981.

The tax levied for the library system is thus a ‘county tax’.

If the quoted language of § 4-9-39 is given its literal effect or meaning, there would be a constitutional conflict in that it would subject to county taxes that property specifically exempted therefrom by the Constitution. Here, however, that result is not required. An interpretation or construction that will render the statute constitutional is favored.

*2 ‘A statute will, if possible, be construed so as to render it valid.’ [Parker v. Bates](#), 216 S.C. 52, 56 S.E.2d 723. For other cases, see 6 S.C.D., [Constitutional Law](#), Key 48, et seq.

It is here possible to interpret the section so as to avoid the constitutional conflict. Section 4-9-39 prescribes the class of persons and corporations subject to the library tax.

It is those persons and corporations liable for school taxes that are also liable for the library tax. Necessarily excluded therefrom, however, is that property exempted from county taxes by controlling constitutional or statutory provisions.

Under this interpretation a person or corporation is liable for the library tax unless exempted therefrom and when subject to school taxes. Support for this interpretation is found in the [Hollingsworth](#) case, supra. The Court there stated that ‘the tax will be levied in the same manner as a school tax.’

CONCLUSION:

Under settled rules of construction that an interpretation in favor of the constitutionality of the statute is required, it is thus the opinion of this office that § 4-9-39 does not conflict with Article X, § 3(g). The opinion is based upon the interpretation that the library tax does not apply to that property exempt by [Article X, § 3\(g\) of the South Carolina Constitution](#). An interpretation that would render such property subject to the library tax necessarily results in the statute's being unconstitutional.

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