

1980 S.C. Op. Atty. Gen. 108 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-64, 1980 WL 81947

Office of the Attorney General

State of South Carolina

Opinion No. 80-64

June 5, 1980

***1 SUBJECT: Property Tax—Exemptions for New Manufacturing Plants and Additions to Existing Plants in Florence County.**

(1) An exemption for the 1976, 1977 and 1978 tax years was provided for new manufacturing plants or additions to existing plants in Florence County by Section 65–1544 of the 1962 Code, as amended by Act 95, Acts of 1969, and by Section 65–1527(2) of the 1962 Code.

(2) No procedure to obtain the exemption afforded manufacturing plants was provided by statute.

(3) When the tax is paid for which an exemption exists, the same cannot be refunded without statutory authority.

(4) An exemption afforded to a new manufacturing plant or to additions to existing plants cannot be extended beyond the period provided by the granting statute.

TO: Peter D. Hyman, Esq.
Florence County Attorney

QUESTION:

Four questions are presented:

1. Did Florence County have a five year exemption from county property taxes for new manufacturing facilities and for improvements to existing ones?
2. If there was such an exemption in effect, what were the requirements to obtain the exemption?
3. If there was an exemption and a manufacturer qualified but paid the tax, can the same be refunded?
4. If there was an exemption and a manufacturer qualified and if a refund cannot be issued, can a reduction of property taxes to be paid in the future be granted?

APPLICABLE LAW:

Section 65–1554 of the 1962 Code, as amended by Act 95, Acts of 1969, and Section 65–1527(2) of the 1962 Code.

DISCUSSION:

It is to be noted that this opinion treats the 1978 and prior tax years. The exemption referred to above were repealed by [Article X, Section 3 of the South Carolina Constitution](#), effective as of March 1, 1978. The exemption for new plants and additions

to existing plants for the 1979 and subsequent years is found in [Article X, Section 3\(a\)](#) and in [Section 12–37–220\(7\) of the 1976 Code](#).

Question 1. An exemption was provided in Florence County for new manufacturing plants for the 1976, 1977 and 1978 tax years by Section 65–1544 of the 1962 Code, as amended by Act 95, Acts of 1969. An exemption was provided for certain additions to existing manufacturing plants in Florence County by Section 65–1527(2) of the 1962 Code of Laws.

Question 2. We know of no procedural statutory conditions for obtaining the exemption.

Question 3. We do not know of any statutory authority that authorizes the refund of taxes paid without protest by an exempt manufacturer. It is settled law that the refund of a tax is a matter of legislative discretion. [Guaranty Bank and Trust Co. v. South Carolina Tax Commission](#), 254 S.C. 82, 173 S.E. 2d 367. The Tax Commission was held to be without authority to order the refund of a similar tax paid Spartanburg County. [Owings Mills, Inc. v. Brady](#), 249 S.C. 371, 154 S.E. 2d 560. In the absence of statutory authority the refund of taxes paid for the 1976, 1977 and 1978 tax years cannot be issued.

*2 Question 4. The 1979 Act limits the exemption to ‘five years from the date of the establishment’ of the new manufacturing plant. Section 65–1527 limits the exemption for additions to existing plants to five years from ‘the time of such addition’. The time cannot thus be extended. We enclose a copy of an opinion of May 9, 1969 that further treats this question.

CONCLUSION:

(1) An exemption for the 1976, 1977 and 1978 tax years was provided for new manufacturing plants or additions to existing plants in Florence County by Section 65–1544 of the 1962 Code, as amended by Act 95, Acts of 1969, and by Section 65–1527(2) of the 1962 Code.

(2) No procedure to obtain the exemption afforded manufacturing plants was provided by statute.

(3) When the tax is paid for which an exemption exists, the same cannot be refunded without statutory authority.

(4) An exemption afforded to a new manufacturing plant or to additions to existing plants cannot be extended beyond the period provided by the granting statute.

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