

1979 WL 42926 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 13, 1979

\*1 Chief R. L. White  
Piedmont Park Fire District  
Route 12, State Park Road  
Greenville, South Carolina 29609

Dear Chief White:

Pursuant to our conversations this week, I am writing to advise you of possible consequences resulting from the recent decision of the South Carolina Supreme Court in [Celanese Corporation, et al. v. Strange, et al., 272 S.C. 399, 252 S.E.2d 137 \(1979\)](#). That decision declares in part that ‘the order of the lower court declaring Act No. 1414 of 1970 unconstitutional is affirmed.’ [252 S.E.2d at 139](#). If Act No. 1414 of 1970 has, in fact, been declared unconstitutional in its entirety, then annexations to special purpose districts made pursuant thereto since 1970 are, most probably, invalid. Deputy Attorney General Joe L. Allen, Jr., who handles all of the tax questions for the State, is of the opinion that taxes collected in those areas annexed pursuant to Act No. 1414 can be refunded going back for a period of one year only, again assuming that all of Act No. 1414 has been invalidated. If, on the other hand, only that portion of Act No. 1414 which violates [Article X, Sections 1 and 5 of the South Carolina Constitution](#), i.e., that portion authorizing different tax rates within one special purpose district, has been invalidated, then all areas annexed pursuant to that legislation would be valid and only any inequality in taxes would have to be corrected. Nevertheless, the fact that the Supreme Court did not expressly hold that the remainder of Act No. 1414 is severable from the offending portion lends weight to the opinion that Act No. 1414 of 1970 in its entirety has been declared unconstitutional.

Clearly, the question is not free from doubt and the only way to resolve it definitely is to institute another declaratory judgment action seeking a declaration from the Supreme Court as to whether Act No. 1414 has been invalidated in whole or in part. Because the interests of the public are concerned and because haste is required, perhaps the Supreme Court can be petitioned to take the question in its original jurisdiction.

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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