

1979 S.C. Op. Atty. Gen. 77 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-61, 1979 WL 29066

Office of the Attorney General

State of South Carolina

Opinion No. 79-61

April 5, 1979

***1 SUBJECT: Property Tax—Exemption—Manufacturers from Municipal Taxation**

The exemption for manufacturers is set forth in the Constitution and cannot be extended by act of the General Assembly to include municipal taxes.

To: Glen S. Baldwin, Esq.
Greenville City Attorney

QUESTION:

May the General Assembly extend the exemption provided new manufacturers or additions to existing manufacturing plants to include taxation by municipalities?

APPLICABLE LAW:

[Article X, Section 3 of the South Carolina Constitution.](#)

DISCUSSION:

The above constitutional provision provides in part that:

‘There shall be exempt from ad valorem taxation:

(g) all new manufacturing establishments located in any of the counties of this State after July 1, 1977, for five years from the time of establishment and all additions to the existing manufacturing establishments located in any of the counties of this State for five years from the time each such addition is made if the cost of such addition is fifty thousand dollars or more. Such additions shall include additional machinery and equipment installed in the plant. 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. Provided, further, that all manufacturing establishments and all additions to existing manufacturing establishments exempt under existing statutes shall be allowed their exemptions provided for by statute until such exemptions expire;

In addition to the exemptions listed in this section, the General Assembly may provide for exemptions from the property tax, by general laws applicable uniformly to property throughout the State and in all political subdivisions, but only with the approval of two-thirds of the members of each House.’ (Emphasis added)

The question is whether the last quoted provision grants authority to extend the exemption. We conclude that it does not.

While this exemption provision has not been judicially construed, it is well settled that the Constitution is a limitation upon the power of the General Assembly and not a grant of such power. [Textile Hall Corp. v. Hill](#), 214 S. C. 262, 54 S. E. 2d 809.

'The provisions of the State Constitution are not a grant but a limitation of legislative power, so that the General Assembly may enact any law not expressly, or by clear implication, prohibited by State or Federal Constitution.' [Parker v. Bates](#), 206 S.C. 52, 56 S.E.2d 723.

It is to be further noted that the section is to be construed as a whole and effect given all provisions. (See cases collected in 6 S. C. D., Constitutional Law, Key 15)

Here there is a prohibition in that the section specifically provides that:

'* * * the exemption authorized in this item * * * shall not include * * * municipal taxes but shall include only county taxes * * *.'

*2 Under [Article X, Section 1](#), prior to amendment, the General Assembly was given the power to exempt property for certain purposes. [Article X, Section 4](#) also provided for certain specific exemptions, however, limited the same to occupied property. The General Assembly attempted to expand the exemptions granted by [Section 4](#), however, the Court held:

'Construing this section and [S. C. Const., Art. 10, § 1](#), together, the power of the legislature to exempt property from taxation for educational purposes does not extend so far as to permit it to exempt real estate of a college which is not occupied by it, since this section expressly states that such property shall not be exempted.' [Wofford College Trustees v. Spartanburg](#), 201 S.C. 315, 23 S.E. 2d 9 (1942). See also [Strong v. Sumter](#), 185 S.C. 203, 193 S.E. 649 (1937).

CONCLUSION:

The exemption for manufacturers is set forth in the Constitution and cannot be extended by act of the General Assembly to include municipal taxes.

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