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Office of the Attorney General

State of South Carolina

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*1 The 'no situs' provisions in Section 12-37-1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution.

Mr. Guy A. Pitts, Jr.
Director
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QUESTION

Are the provisions of Article 7 of Chapter 37 of Title 12, which pertain to personal property in transit, repealed by the recent amendment to Article 10 of the South Carolina Constitution?

DISCUSSION

In Section 3 of Article 10 all statutory exemptions for property tax purposes are repealed. The repealing section states: 'All exemptions not specifically provided for or authorized in this Article shall be repealed. March 1, 1978.'

This follows a listing of ten exemption provisions, designated as Sections 3(a) through 3(j).

Section 12-37-1110 of the 1976 Code of Laws states that 'personal property that is deemed to be in transit through this State' is 'no situs' property for purposes of taxation and as such it does not become subject to property taxation. This, in our opinion, excludes property that would otherwise be taxable under general law and has the force and effect of granting an exemption. Our courts have looked to the substance in order to ascertain the tax effect of statutes. [Beard v. South Carolina Tax Commission, 230 S. C. 357, 95 S. E. 2d 628](#). Thus, it is our opinion that the amendment to Article 10 repeals the 'no situs' exemption beginning March 1, 1978.

This conclusion is supported further in the language of the title to Article 10. There it is said that Article 10 shall 'provide for property tax exemptions.' The absence of any reference to such property in the provisions of Article 10 negates the intent to exempt such property.

CONCLUSION

The 'no situs' provisions in Section 12-37-1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution.

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