

1977 S.C. Op. Atty. Gen. 320 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-391, 1977 WL 24727

Office of the Attorney General

State of South Carolina

Opinion No. 77-391

December 13, 1977

\*1 Under the settled rules of construction, the exemption or exclusion provided by § 12-7-590 is not applicable to the salary paid by the Department of Youth Services to its teachers.

TO: Director  
Income Tax Division  
South Carolina Tax Commission

### QUESTION

Your have inquired:

Is Two Hundred Dollars of the salary paid by the Department of Youth Services to school teachers in its employ subject to the provisions of Section 12-7-590 of the 1976 Code?

### STATUTES INVOLVED

### DISCUSSION

Section 12-7-590 provides:

‘Two hundred dollars per annum of the salary paid by each school district in the State to each teacher in the district regardless of classification is hereby declared to be a nontaxable incidental expense allowance.’ (Emphasis added)

Section 59-1-160 defines a school district as:

‘School district’ means any area or territory comprising a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.’ (Emphasis added)

Section 12-7-590 constitutes an exemption from taxation and is thus subject to a strict construction with doubt resolved against the exemption and in favor of the tax.

‘An alleged constitutional or statutory grant of exemption from taxation will be strictly construed in favor of the state and taxation and against the taxpayer and exemption.’ 84 C.J.S., Taxation, Sec. 227, p. 437. See also [Chronicle Publishers, Inc. v. South Carolina Tax Commission](#), 244 S. C. 192, 136 S. E. 2d 261, [York County Fair Ass'n v. South Carolina Tax Commission](#), 249 S. C. 337, 154 S. E. 2d 361.

The Department of Youth Services does not conform to the definitive language of Section 59-1-160 in that it is an agency of the State and as such without boundary lines that constitute a ‘complete tax unit.’ (See also cases collected in 16 S.C.D., Key. 21, that define a school district).

CONCLUSION

Under the settled rules of construction the exemption or exclusion provided by Section 12-7-590 is not applicable to the salary paid by the Department of Youth Services to its teachers.

COMMENT:

The opinion herein expressed is not to be interpreted as being in conflict with the opinion of this office of November 3, 1977 addressed to the Honorable Kay Patterson and written by Nathan Kaminski, Jr., Assistant Attorney General. The settled rules of construction that doubt be resolved in favor of the tax and against the exemption or exclusion mandate the conclusion herein stated.

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Deputy Attorney General

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