

1972 S.C. Op. Atty. Gen. 157 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3328, 1972 WL 20468

Office of the Attorney General

State of South Carolina

Opinion No. 3328

June 9, 1972

***1 The Tax Commission has no discretion concerning the ratio to be used in determining the tax value of the property of manufacturers because of Bill S-925. Therefore, there is no need for a hearing before the Tax Commission, there being no administrative remedies to exhaust.**

Director

Property Tax Division

South Carolina Tax Commission

Reference is made to your request of June 5, 1972 for the opinion of this office concerning exceptions to proposed assessments by the Commission of the property of manufactures when the exceptions relate to the ratio applied to the fair market value of the property to determine the tax value of the same. Specifically you request the opinion of whether hearings are necessary thereon in the light of Senate Bill S-925 that has been passed and ratified by the Governor. The Bill provides for fixed ratios to be used in determining the tax value of the property.

The ratio being thus fixed by the General Assembly, there is nothing the Tax Commission can do regarding the same except to comply with the declarations of the General Assembly.

‘An administrative agency has only such powers as may have been conferred upon it by law and must act within the granted authority for an authorized purpose. It may not validly act in excess of its powers nor has it any discretion as to the recognition of or obedience to a statute. The agency must obey a law found upon the statute books until in a proper proceeding its constitutionality is judicially passed upon.’ 2 Am. Jur. 2d.—Adm. Law, Section 188, p. 21.

The Tax Commission has no discretion in applying the ratio provided for in the Act. Therefore, there is no need for an administrative hearing concerning the same. However the opinion herein expressed is limited in application to the ratios that are fixed by the Bill.

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