



ALAN WILSON  
ATTORNEY GENERAL

May 21, 2026

The Honorable Tom Davis, Member  
South Carolina Senate  
203 Gressette Bldg.  
Columbia, SC 29201

Dear Senator Davis:

Attorney General Alan Wilson referred your letter to the Opinions section for a response to your property tax question. You ask “[w]hether a new application for an agricultural exemption is required when an owner subdivides a previously exempt tract and retains the subdivided parcels without any change in use.” It is our opinion that a new application is not required under such circumstances.

#### Law/Analysis

The South Carolina Constitution authorizes the General Assembly to provide for ad valorem taxation of all real and personal property by the State or its subdivisions. S.C. Const. art. X, § 1. The Constitution creates various classifications of property and corresponding assessment ratios, including one for “agricultural real property which is actually used for such purposes.” S.C. Const. art. X, § 1(4). Further, the Constitution requires the assessment of all property to be equal and uniform within classifications. S.C. Const. art. X, § 1. The General Assembly enacted South Carolina Code Section 12-43-220 which outlines the classifications of real property, provides procedures for claiming certain classifications, and addresses roll-back taxes. Each classification of property has a corresponding assessment ratio matching that provided for in the Constitution. S.C. Code Ann. § 12-43-220 (2014 & Supp. 2025).

While fair market value is used as the taxable value for most classes of real property, qualified agricultural property is subject to taxation based on its fair market value for agricultural purposes. S.C. Code Ann. § 12-43-220(d)(1) (2014). The assessment ratio for agricultural property is either four percent or six percent of that value with the lower ratio available to individuals, partnerships, and certain types of corporations. *Id.* For all property not otherwise classified, the default assessment ratio is six percent of the property’s fair market value. § 12-43-220(e). As a result of its special classification, agricultural property used for agricultural purposes

benefits from not only a special taxable value but, depending on the ownership, from an assessment ratio lower than that available to most classes of property.<sup>1</sup>

Agricultural property does not automatically receive the tax treatment afforded by the statute, however. Instead, to have property classified as agricultural the owner(s) must submit a written application to the county assessor “on or before the first penalty date for taxes due for the first tax year in which the special assessment is claimed.” § 12-43-220(d)(3)(A) (Supp. 2025). Although a county’s governing body may extend the deadline on a showing of good cause, failure to apply for agricultural classification constitutes a waiver of the special assessment for that year. Id. Once the property is classified as agricultural, “[n]o additional annual filing is required while the use of the property remains bona fide agricultural and the ownership remains the same.” Id. (emphasis added). An owner must notify the assessor of a change of use within six months and failure to provide notice subjects the owner to a penalty with interest. Id. When an owner has put property classified as agricultural to other use, the property is subject to rollback taxes to make up for the difference between the taxes paid and those that would have been paid had the property been valued, assessed, and taxed as other real property. § 12-43-220(d)(4).

You ask whether the owner of property classified as agricultural is required to submit a new application for an agricultural exemption when the property is subdivided but the ownership remains the same and the property remains *bona fide* agricultural. The primary goal of statutory construction is to determine and give effect to the intent of the legislature. Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). Where a statute’s language is plain and unambiguous, courts will not resort to rules of construction to find a different meaning. Tilley v. Pacesetter Corp., 355 S.C. 361, 373, 585 S.E.2d 292, 298 (2003). It is important to note our courts treat Section 12-43-220 as a tax exemption statute and construe tax exemption statutes strictly against the taxpayer. CFRE, LLC v. Greenville Cnty. Assessor, 395 S.C. 67, 74-75, 716 S.E.2d 877, 881 (2011); Ford v. Beaufort Cnty. Assessor, 398 S.C. 508, 514, 730 S.E.2d 335, 339 (Ct. App. 2012). However, the policy of strictly construing tax exemption statutes against the taxpayer simply means that our courts will not strain the language of such statutes to the taxpayer’s benefit, not that they will “search for an interpretation in the [taxing authority’s] favor where the plain and unambiguous language leaves no room for construction.” CFRE, 395 S.C. at 74-75, 716 at 881 (quoting Se. -Kusan, Inc. v. S.C. Tax Comm’n, 276 S.C. 487, 489, 280 S.E.2d 57, 58 (1981)).

Our plain reading of Section 12-43-220 leads us to the conclusion that if a property is already classified and taxed as agricultural a new application to have the property classified as agricultural is not required as long as the property’s ownership and use remain the same. Subdivision does not necessitate a new application.

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<sup>1</sup> A four percent assessment ratio is the lowest ratio provided for in the statute. The only other class of property eligible for a four percent assessment ratio is owner-occupied property that serves as the owner’s “legal residence.” § 12-43-220(c) (2014 and Supp. 2025).

A prior opinion of this office reinforces our reading of the relevant portion of Section 12-43-220. The opinion addressed whether subdividing a tract of land without making any improvements and while retaining ownership triggered a new assessment or reassessment of each lot. Op. S.C. Att’y Gen., 2021 WL 303802 (January 14, 2021). Our opinion explained that other than during a countywide reassessment, our property tax statutes require appraisal of property for tax purposes when improvements or additions are made to the property or when an assessable transfer of interest (ATI) has occurred. Id. at 1. We reviewed both the statutory definition of an ATI as well as non-exhaustive lists, provided by statute, of events that do and do not constitute an ATI. Conveyances by deed and a change of property use are among the list of ATIs specifically recognized by statute. Id. at \*2-3 (citing S.C. Code Ann. § 12-37-3150(A)). Subdivision of property, however, does not appear on either list. Id. at \*4. Ultimately, we concluded:

From both the definition of “assessable transfer of interest” in section 12-37-3130(4) and the list of assessable transfers of interest found in section 12-37-3150(A), it is clear for an ATI to occur, there must be a transfer of an interest or a change in the use of the property. Your letter indicates the property owner did not convey the property, but simply subdivided it, maintaining ownership both before and after the subdivision of the property. You also do not indicate a change in use of the property. We do not believe the General Assembly intended for these circumstances to amount to an ATI. Therefore, based solely on the information provided to us, we are of the opinion that a new assessment or reassessment would not be triggered.

Id. at 5.

Our prior opinion is instructive because both the ATI statutes and the portion of Section 12-43-220 in question share parallel triggering language. A change of use or change in ownership necessitates a new application for agricultural tax treatment just as a transfer of interest or change of use triggers reassessment. On these issues, our General Assembly has fashioned statutes that produce consistent and predictable results. While ownership and use of property classified as agricultural for tax purposes remains unchanged, the owner is not required to submit annual applications to receiving the same favorable tax treatment. Subdivision without a change in ownership or use of the property does not trigger the need to submit a new application to receive the same taxable value and assessment ratio.

### **Conclusion**

It is the opinion of this office that absent a change of ownership or use, there is no need for the owner of property classified as agricultural under Section 12-43-220 to submit an additional annual application for the continued exemption. This includes when the property is subdivided by the owner.

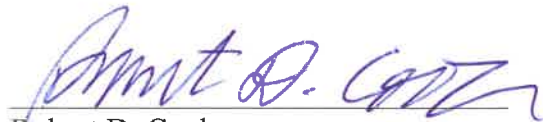
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Sincerely,

A handwritten signature in blue ink that reads "Sabrina C. Todd". The signature is fluid and cursive, with the first name being the most prominent.

Sabrina C. Todd  
Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in blue ink that reads "Robert D. Cook". The signature is cursive and somewhat stylized, with a long horizontal stroke at the end.

Robert D. Cook  
Solicitor General Emeritus