

1972 S.C. Op. Atty. Gen. 156 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3327, 1972 WL 20467

Office of the Attorney General

State of South Carolina

Opinion No. 3327

June 9, 1972

***1 A county cannot collect a tax for the purpose of turning the proceeds over to a city located within the county. Also, any tax imposed by a county must be uniform and this includes that portion of the county in which a city is located.**

Sumter County Attorney

Your letter of May 23, 1972, has been handed to me for attention and reply. In it you ask two questions. The first question is whether Sumter County can levy a business license tax on a county-wide basis and then turn the portion of the funds collected from businesses located within the City of Sumter over to the city.

Article 10, Sections 5 and 6 of the South Carolina Constitution, limit the purposes for which a county can levy a tax. These sections apply to license taxes. See *Hay v. Leonard*, 212 S. C. 81, 46 S. E. 2d 653 (1948). Article 10, Section 5 limits the authority to tax to 'corporate purposes', and Article 10, Section 6 states that a county can only be authorized to tax for 'educational purposes, to build and repair public roads, buildings and bridges, to maintain and support prisoners, pay jurors, county officers, for litigation, quarantine, court expenses, for ordinary county purposes, to support paupers and pay post indebtedness'.

It is the opinion of this office that a county cannot collect a tax for the purpose of turning a portion of the funds collected over to another municipal corporation, namely a city located within the county. Such a tax would not be levied for the limited purposes enumerated in the South Carolina Constitution. There is presently a business license tax imposed by the City of Sumter, but none imposed by Sumter County.

Your second question is whether those businesses within the City of Sumter would have constitutional grounds to object to the imposition of a county license tax.

Cities have been delegated the power to impose business license taxes by Section 47–271 of the Code. The County Commission of Sumter County has also been delegated the authority to impose a business license tax. See Section (d) of Act No. 371, 1967 Acts and Joint Resolutions at 525.

Any tax imposed by the County of Sumter must be uniform with respect to persons residing in the county. This is specifically guaranteed by Article 10, Section 5 of the South Carolina Constitution. The uniformity requirement of Article 10, Section 5 was examined by the South Carolina Supreme Court in the case of *Hay v. Leonard*, supra. That case makes it clear that a county tax must apply uniformly throughout the county. Because the City of Sumter is located in Sumter County, any business license tax imposed by the county must be imposed on businesses located within the city. The businesses located within the City of Sumter would not therefore have constitutional grounds to object to the uniform application of a county-wide business license tax.

Opinions of this office dated February 22, 1971; January 26, 1972 and April 24, 1972, which relate to this question have been included.

***2** John C. von Lehe
Assistant Attorney General

1972 S.C. Op. Atty. Gen. 156 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3327, 1972 WL 20467

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.