

1972 S.C. Op. Atty. Gen. 120 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3303, 1972 WL 20443

Office of the Attorney General

State of South Carolina

Opinion No. 3303

April 27, 1972

\*1 Property over which an easement or right of way has been granted is taxable to the owner described in Section 65–1611 of the Code, however, the fair market value of such property must be determined by a consideration of the effect of the easement or right of way thereon.

Honorable P. D. Gill, Jr.  
Jasper County Tax Assessor  
Ridgeland, South Carolina 29936

Dear Mr. Gill:

Reference is made to your letter of April 26, 1972, wherein you request the opinion of this office as to the procedure of valuing property on or over which an easement or right-of-way has been granted and whether such property should be taxable or exempt.

Section 65–1611 provides in part that:

‘Every person shall be liable to pay taxes and assessments on the real estate of which he may stand seized in fee or for life \* \* \*.’

The property is therefore taxable to the owner of the fee or to the life tenant since there is no provision that exempts the same from taxation.

In determining the fair market value of the property, you should however consider the effect of the easement or right-of-way upon the fair market value of the property.

‘Rights, easements, franchises, and appurtenances belonging to, or connected with, a particular parcel of land are to be considered as a part of it, for purposes of assessment, as discussed supra Section 404, and its value should be estimated in connection with such advantages and as enhanced thereby; also, the value of land must be considered as depreciated by easements with which it is burdened. \* \* \*.’ 84 C.J.S., Taxation, Section 411, page 799. (Emphasis added)

It is therefore the opinion of this office that property on which an easement or right-of-way is attached is taxable to the owner of the fee, or in case of a life estate, to the life tenant. It is the further opinion of this office that the fair market value of such property must be ascertained by a consideration of the easement or right-of-way thereon.

Additionally, you request the opinion of this office of the name to be used in listing property of a woman who acquires the property while single and subsequently marries. Specifically you requests our advice of whether the property is to be listed in the maiden name or in the married name.

Section 65–1644 requires the owner of real property to annually list the same for taxation, and the owner should list the property in his or her legal name. Section 65–1758 further requires that you list the property in the true name of the owner; therefore, the property after marriage should be listed in the married name of the woman.

Yours very truly,

Joe L. Allen, Jr.

Assistant Attorney General  
South Carolina Tax Commission

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