

THE STATE OF SOUTH CAROLINA
 OFFICE OF THE ATTORNEY GENERAL
 COLUMBIA

OPINION NO. _____

August 15, 1994

SUBJECT: Taxation and Revenue - Property Tax Exemption

SYLLABUS: The exemption provisions of S.C. Code Ann. Section 12-37-220 (Supp. 1993) do not apply to a separate fee imposed for the disposal of solid waste.

TO: Mr. Michael L. Horton
 Assistant Comptroller General

FROM: Ronald W. Urban *RLU*
 Deputy Attorney General

QUESTION: Do the exemption provisions of Section 12-37-220 apply to a separate fee imposed for the disposal of solid waste?

APPLICABLE LAW: S.C. Code Ann. Section 12-37-220 (Supp. 1993).

DISCUSSION:

Many county and city ordinances impose solid waste fees on dwellings, residences or other properties as a means for funding the disposal of solid waste. In some instances, these fees appear on the county or city tax bills as separately stated items. The question posed is whether the exemption provisions of Section 12-37-220 apply to such fees.

The language of Section 12-37-220 states that it exempts certain properties from ad valorem taxation. An ad valorem tax is a tax "upon the value of the article or thing subject to taxation." Authur v. Johnston, 185 S.C. 324, 194 S.E. 151 (1937). Inasmuch as the fees in question are not based on the value of any particular property, they are not an ad valorem tax within the purview of Section 12-37-220.¹

¹Aside from not being an ad valorem tax, it is doubtful whether these fees are even a tax. Rather, they have all the indicia of a service charge. See Brown v.

Mr. Michael L. Horton
Page Two

August 15, 1994

Accordingly, the exemption provisions of Section 12-37-220 do not apply to such fees.

CONCLUSION:

The exemption provisions of S.C. Code Ann. Section 12-37-220 (Supp. 1993) do not apply to a separate fee imposed for the disposal of solid waste.

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County of Horry, ___ S.C. ___, 417 S.E.2d 565 (1992).