

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

February 19, 1993

SUBJECT: Taxation and Revenue - Taxpayer appeal procedure from denial of agricultural use classification.

SYLLABUS: Taxpayer A owned real property which received agricultural use classification. Taxpayer A sold the property to Taxpayer B who did not make a new application for the classification. The county assessor denied the agricultural use classification because the new owner did not file an application. Taxpayer B, who did not believe that an application was required, nonetheless, sought an extension of time to file, but County Council refused the request. Since the assessor has made a change in classification, the taxpayer has the right to the appeal process outlined in S.C. Code Ann. Section 12-43-300 (Supp. 1992), 27 S.C. Code Ann. Regs. 117-118, 117-3, and 117-4 (1976).

TO: Mr. James L. Brodie  
Director, Property Division  
South Carolina Tax Commission

FROM: V. Claire Allen *VCA*  
Assistant Attorney General

QUESTION: What is the administrative appeal procedure for a taxpayer who is denied an agricultural use classification, where the taxpayer purchased property from an owner receiving the agricultural use classification?

APPLICABLE LAW: S.C. Code Ann. Section 12-43-220(d)(3) (Supp. 1992), S.C. Code Ann. Section 12-43-300 (Supp. 1992); 27 S.C. Code Ann. Regs. 117-118 (1976); and 27 S.C. Code Ann. Regs. 117-3 and 117-4 (1976).

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DISCUSSION:

You have stated that Taxpayer A owned property for which agricultural use was granted. Taxpayer A sold the property to Taxpayer B and Taxpayer B continued the same use. The assessor has denied agricultural use classification to Taxpayer B since no application for agricultural use was filed. Taxpayer B asserts that since he acquired real property which was previously classified as agricultural real property and the use has not changed, he is not required to make a new written application.<sup>1</sup> Under these facts, as a practical matter, the classification of the property by the assessor has been changed.

S.C. Code Ann. Section 12-43-300 (Supp. 1992) outlines the procedure to be followed by the assessor in giving written notice to the owner of a change to the property. We were advised no written notice was given by the assessor in this case. A property owner is entitled to notice from the assessor under this section if the assessment change results from valuation adjustments or classification and ratio changes. See 1978 OAG, No. 78-215, p. 248. Section 12-43-300 further outlines the procedure for an objecting owner to obtain a conference with the assessor and appeal to the Board of Assessment Appeals if still aggrieved by the valuation and assessment.

Regulation 117-118 provides that a property owner aggrieved by the classification of his property shall follow the appeal procedure set forth in the administrative regulations of the Tax Commission. Regulations 117-3 and 117-4 set forth the procedures for appeal to the county tax board of appeals and the Tax Commission respectively.

In this case, the code sections and regulations provide the property owner with the right to written notice from the assessor due to the classification change and the corresponding rights to a conference with the assessor and administrative appeal. This procedure provides due process to the owner by establishing an avenue to address his legal position under S.C. Code Ann. Section 12-43-220(d)(3) (Supp. 1992).

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<sup>1</sup>We express no opinion on the legal validity of this position since the matter is in litigation at the administrative level.

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The taxpayer has the appeal rights outlined even though he attempted to obtain an extension from County Council to file an application. Factually, the property had been previously classified for agricultural use when it was owned by Taxpayer A. The action by the assessor changed that classification. Such a change in classification is a different scenario from a situation in which Taxpayer A did not have agricultural use classification at the time of the sale to Taxpayer B. In such a situation, the assessor would not be changing the classification of the property. If Taxpayer B failed to file a timely initial application in that situation, his remedy would be to seek an extension from the county governing body to file the application for that tax year. If County Council denied the extension, Taxpayer B's remedy would be to seek review in the Court of Common Pleas.

CONCLUSION:

Taxpayer A owned real property which received agricultural use classification. Taxpayer A sold the property to Taxpayer B who did not make a new application for the classification. The county assessor denied the agricultural use classification because the new owner did not file an application. Taxpayer B, who did not believe that an application was required, nonetheless, sought an extension of time to file, but County Council refused the request. Since the assessor has made a change in classification, the taxpayer has the right to the appeal process outlined in S.C. Code Ann. Section 12-43-300 (Supp. 1992), 27 S.C. Code Ann. Regs. 117-118, 117-3, and 117-4 (1976).

VCA/wcg