

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

August 27, 1991

SUBJECT: Taxation and Revenue - Property Tax Exemption
- Pioneer Rural Water District.

SYLLABUS: The lease by the Pioneer Rural Water District of a small portion of a lot to a cable company with the right of the cable company to install an antenna upon the water tank of the District would not subject the District's property to ad valorem taxation.

TO: Honorable Alexander S. Macaulay
Senator, District 1

FROM: Joe L. Allen, Jr. *JLA*
Chief Deputy Attorney General

QUESTION: Would the property of the Pioneer Rural Water District become subject to taxation if the District were to lease a small portion of a lot upon which the District's water tank is located together with the right to place an antenna upon the tank?

APPLICABLE LAW: S.C. Const. art. X, § 3(a) (Supp. 1990);
S.C. Code Ann. § 12-37-220A(1) (Supp. 1990).

DISCUSSION:

Article X, § 3 of the South Carolina Constitution exempts from taxation:

- (a) all property of the State, counties, municipalities, school districts and other political subdivisions,¹

¹S.C. Code Ann. § 6-13-210 (1976) provides in part that:

There is hereby created a body corporate

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if the property is used exclusively for public purposes;

Section 12-37-220A(1) contains the same language and additionally provides that the Tax Commission and the county assessor are to determine if the use is exclusively for public purposes. By reason thereof, a declaration of the tax status of the property must be determined by the Tax Commission and the county assessor.

Nonetheless, it is the opinion of this office that the property's exemption would not be jeopardized by the lease. The cases of Charleston County Aviation Authority v. Wasson, 277 S.C. 480, 289 S.E.2d 416 (1982), Taylor v. Davenport, 281 S.C. 497, 316 S.E.2d 389 (1984), and South Carolina Public Service Authority v. Summers, 282 S.C. 148, 318 S.E.2d 113 (1984), all dealt with publicly-owned property that was leased to others who profited from the lease. In each case, the Court held the lease to be incidental to the public purposes of the political entity. The fact that a profit was made by the tenant does not preclude the exemption.

In the instant case, the primary purpose of the District is to provide water. The fact that it may receive income from the lease to be used to further reduce the costs of providing the water service would bring it within the declarations of our Court as set forth in the above cases.

CONCLUSION:

The lease by the Pioneer Rural Water District of a small portion of a lot to a cable company with the right of the cable company to install an antenna upon the water tank of

and politic of perpetual succession to
be known as the Pioneer Rural Water
District of Oconee and Anderson Counties

...

Its purposes are set forth by statute and the District's management is appointed by the Governor. It is thus a political subdivision of the State. For cases see 32A, Words and Phrases, Political Subdivisions.

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ad valorem taxation.

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