

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

February 26, 1990

SUBJECT: Taxation And Revenue - Property Tax
Exemptions for Farm Machinery.

SYLLABI: 1. Section 12-37-220 B (14)'s property tax exemption for farm machinery is restricted to machinery actually used for agricultural purposes. The assessment ratio of machinery not meeting this requirement is determined by either Section 12-43-220 (a), (f) or (g).

2. An airplane used by a farmer solely to spray his crops comes within Section 12-37-220 B (14)'s property tax exemption for farm machinery.

3. An airplane used by a farmer solely to spray his crops and other farmers' crops for a fee comes within Section 12-37-220 B (14)'s property tax exemption for farm machinery.

4. Machinery leased to a farmer for agricultural purposes comes within Section 12-37-220 B (14)'s property tax exemption for farm machinery.

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

FROM: Ronald W. Urban *rwu*
Assistant Attorney General

QUESTIONS:

1. If a piece of farm machinery such as a tractor is used for nonagricultural purposes, is the tractor taxable or exempt? If taxable, what is the proper assessment ratio?
2. When an airplane is used by a farmer to spray his land only and used for no other purpose, is it taxable or exempt? If taxable, what is the proper assessment ratio?

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3. When a farmer owns an airplane which is used to spray crop lands for himself and multiple farmers for a fee and such is the only use to which it is put, is it taxable or exempt? If taxable, what is the proper assessment ratio?

4. If machinery is leased to a farmer for agricultural purposes, is it taxable or exempt? If taxable, what is the proper assessment ratio?

APPLICABLE LAW: Sections 12-37-220 and 12-43-220, Code of Laws of South Carolina, 1976, as amended.

DISCUSSION - (Question 1):

Section 12-37-220 B (14) exempts the following from property taxes:

"All farm machinery and equipment including self-propelled farm machinery and equipment except for motor vehicles licensed for use on the highways. For the purpose of this section 'self-propelled farm machinery and equipment' means farm machinery or equipment which contains within itself the means for its own locomotion. For purposes of this item, farm equipment includes greenhouses."

The question here is whether machinery normally thought of as being related to farming, i.e. a tractor, is entitled to the above exemption when not used for agricultural purposes. Stated another way, is the word "farm" placed in Section 12-37-220 B (14) merely for descriptive purposes or is it there to convey an intent such property must be actually used for farming?

The legislature's intent is the primary consideration in construing the language of Section 12-37-220 B (14). Citizens and Southern Systems, Inc. v. South Carolina Tax Commission, 280 S.C. 138, 311 S.E. 2d 717 (1984). In ascertaining this intent it is noted agriculture is generally recognized as a favored classification often exempted from various forms of tax burdens. 3 Am. Jur. 2d, Agriculture, Section 19, page 957. Accordingly, it is assumed the legislative intent of Section 12-37-220 B (14) is to further the interest of agriculture.

The only reasonable manner such intent can be fostered by Section 12-37-220 B (14) is if the word "farm" as used

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therein is interpreted as requiring an actual use for agricultural purposes. In point of fact, the view that "farm" is used merely for descriptive purposes would allow the exemption in areas not related to agriculture. For example, under such view a tractor used by a manufacturer to mow its grass would be exempted because tractors are generally thought of as being farm machinery.

The opinion expressed herein is further supported by the Tax Commission's long-standing interpretation of Section 12-37-220 B (14). In accordance with that position, the Commission has not afforded Section 12-37-220 B (14)'s exemption to any farm machinery or equipment unless such property is actually used on a farm for agricultural purposes. This construction of a statute by the agency charged with its administration is entitled to the most respectful consideration and should not be overruled absent compelling reason. Emerson Elec. Co. v. Wasson, 287 S.C. 394, 339 S.E. 2d 118 (1986).

Finally, machinery and equipment not meeting the agricultural requirements of Section 12-37-220 B (14) should be assessed pursuant to either Section 12-43-220 (a), (f) or (g). The appropriate subsection would be dependent upon the classification of the property.

CONCLUSION:

Section 12-37-220 B (14)'s property tax exemption for farm machinery is restricted to machinery actually used for agricultural purposes. The assessment ratio of machinery not meeting this requirement is determined by either Section 12-43-220 (a), (f) or (g).

DISCUSSION - (Question 2):

One of the most quoted definitions of "machine" is found in Corning v. Burden, 15 How. 252 at 267, 14 L.Ed. 683, at 690:

"The term 'machine' includes every mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result."

An airplane, like a tractor, comes within this definition. Therefore, it stands to reason an airplane used by a farmer

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solely for spraying agricultural crops would also come within Section 12-37-220 B (14)'s exemption for farm machinery and equipment.

CONCLUSION:

An airplane used by a farmer solely to spray his crops comes within Section 12-37-220 B (14)'s property tax exemption for farm machinery.

DISCUSSION - (Question 3):

The third question asks whether an airplane used solely by a farmer to spray his own crops and crops of others for a fee is exempted under Section 12-37-220 B (14). The answer turns on whether the exemption is based strictly on use or whether it is also related to ownership. In other words, must the agricultural purpose served be that of the airplane's owner?

The general rule on this point is found at 84 C.J.S., Taxation, Section 232, pages 450-451. There it is stated:

"Under constitutional and statutory provisions for exemption from taxation of property used for stated purposes, ordinarily it is the use and not the ownership which determines the right to the exemption. It has been held that, where the property is so used as to exempt it from taxation, the ownership of the property is immaterial except as it may be of evidentiary significance in determining whether or not the use of the property is within the exemption; . . . "

The exemption in Section 12-37-220 B (14) appears to be based on use rather than ownership. Nowhere in the statute is it indicated that machinery and equipment used for agricultural purposes must also be owned by a particular party as a prerequisite to being exempted. Accordingly, the airplane here in question should be exempted since it is being used for the required purpose.

CONCLUSION:

An airplane used by a farmer solely to spray his crops and other farmers' crops for a fee comes within Section

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12-37-220 B (14)'s property tax exemption for farm machinery.

DISCUSSION - (Question 4):

The rationale expressed in Question 3 is likewise applicable here. Farm machinery need not be owned by a farmer to receive the exemption in Section 12-37-220 B (14).

CONCLUSION:

Machinery leased to a farmer for agricultural purposes comes within Section 12-37-220 B (14)'s property tax exemption for farm machinery.

RWU/jws