

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

January 18, 1991

SUBJECT: Taxation and Revenue - Exemption Of
Manufacturer's Property From The Millage
Levied For The Pee Dee Area Civic Center
And The Pee Dee Regional Airport Authority.

SYLLABUS: The exemption for new manufacturing
plants or additions to existing plants
provided by S.C. Code Ann. Section
12-37-220 A (7) and Article X, Section 3(g)
of the Constitution includes the tax levy by
Florence County for the Pee Dee Area Civic
Center, however, does not include the levy
for the Pee Dee Regional Airport Authority.

TO: Honorable H. Wayne Joye
Florence County Auditor

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

QUESTION: Does the exemption provided by S.C. Code Ann.
Section 12-37-220 A (7) include the tax levy for the Pee Dee
Area Civic Center and the Pee Dee Regional Airport Authority?

APPLICABLE LAW: S.C. Code Ann. Section 12-37-220 A (7),
Section 55-11-610 (Supp. 1990), et seq. and Article X, Sec-
tion 3(g) of the South Carolina Constitution.

DISCUSSION:

It is understood that the Pee Dee Area Civic Center is a
park, entertainment and recreation facility. The costs of
its construction and operation are borne jointly by the city
and county. The tax levy here considered is to fund that
part of such costs to be paid by the county.

The Pee Dee Regional Airport District is a political subdivi-
sion of the state. Its geographical area is comprised of
Florence, Darlington, Marion and Dillon counties. Section
55-11-630(14) provides that the authority may

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. . . direct the auditors of each of Florence, Darlington, Marion, and Dillon counties to levy a tax on all properties within the district, to be collected by the treasurers of Florence, Darlington, Marion, and Dillon counties, in an amount approved in each fiscal year by ordinance of the county councils of each of those counties.

Section 12-37-220 A (7) and the Constitution provide a limited exemption for certain new manufacturing plants or additions to existing plants. The pertinent language is that:

The exemptions authorized in this item . . . , do not include exemptions from school taxes or municipal taxes but include only county taxes.

The issue is whether either of the two levies constitutes a county tax. A county tax is a tax levied to fund a county budget or purpose. See Carolina Ry. Co. v. Tribble, 25 S.C. 260, and Michelin Tire Corp. v. Spartanburg County Treasurer, 281 S.C. 31, 314 S.E. 2d 8, Vol. 10, Words & Phrases, County Tax, p. 164, et seq.

The tax levied the county's share of funding of the Pee Dee Area Civic Center falls clearly within this definition and the exemption would apply to this levy. The tax levied to fund the budget of the Pee Dee Regional Airport Authority, however, is without the definition. The tax is to fund the budget of a separate political entity and hence is not a county tax. Owen Industrial Products, Inc. v. Sharpe, 274 S.C. 193, 262 S.E. 2d 33. It should also be noted that because the tax is levied by the auditor, collected by the treasurer and approved by the county council would not convert the levy into a county tax.

In Owen, supra, the court quotes from Bowaters Carolina Corp. v. Smith, 257 S.C. 563, 186 S.E.2d 761 as follows:

The fact that all taxes, whether county or school district, are levied by the county auditor and collected and disbursed by the county treasurer is of no relevance in determining the present question. [Whether the tax was or was not a county tax.]

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CONCLUSION:

The exemption for new manufacturing plants or additions to existing plants provided by Section 12-37-220 A (7) and Article X, Section 3 (g) of the Constitution includes the tax levy by Florence County for the Pee Dee Area Civic Center, however, does not include the levy for the Pee Dee Regional Airport Authority.

JLAJR/jws