

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

April 23, 1991

SUBJECT: Taxation and Revenue - The Effect of the Homestead Exemption Upon the Tax Credit for Local Option Sales Tax.

SYLLABUS: Property qualifying for the homestead exemption is not taxable property and hence is not included in determining the ratio for calculating the tax credit provided by the local option sales tax.

TO: Mr. Michael L. Horton
Assistant Comptroller General

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

QUESTION: Should the tax credit generated by the local option sales tax be determined prior or subsequent to the application of the homestead exemption?

APPLICABLE LAW: S.C. Code Ann. §§ 4-10-40(B) and 12-37-250 (Supp. 1990)

DISCUSSION:

Section 12-37-250 provides:

The first twenty thousand dollars of the fair market value of the dwelling place of a person is exempt from county, municipal, school, and special assessment real estate property taxes when the person has been a resident of this State for at least one year and has reached the age of sixty-five years on or before December thirty-first, the person has been classified as totally and permanently disabled . . . or the person is legally blind . . .

April 23, 1991

Under this provision, the first twenty thousand dollars of the fair market value of the homestead of a qualifying person is exempt from taxation. It is thus not taxable property.

"Taxable property" means all property not excepted by law from taxation.

State v. City Council of Charleston, 4 Strob. 217 (1850).
See also 84 C.J.S., Taxation, § 215, pp. 411-414.

Section 4-10-40(B) provides that:

All of the revenue received by a county and municipality from the Property Tax Credit Fund must be used to provide a credit against the property tax liability of taxpayers in the county and municipality in an amount determined by multiplying the appraised value of the taxpayer's taxable property by a fraction in which the numerator is the total estimated revenue received by the county or municipality from the Property Tax Credit Fund during the applicable tax year and the denominator is the total of the appraised value of taxable property in the county or municipality as of January first of the applicable taxable year.

It is significant to note that a "tax credit" is allowed against "the property tax liability." It is an amount that is subtracted from the person's property tax liability.

. . . Tax credits are amounts that are subtracted from the net tax . . . to reduce the amount owed by the taxpayer . . .

Center for Public Interest Law v. Fair Political Practices Commission, 259 Cal.Rptr. 21, 210 Cal.App.3d 1476 (1989).

. . . A tax credit functionally is applied to the taxpayer's income tax liability after that tax has been computed and established. The credit, of course, reduces the income tax payable. . .

Mr. Michael L. Horton
Page Three

April 23, 1991

General Motors Corp. v. Mississippi State Tax Commission,
510 So.2d 498 (1987).

Section 4-10-40(B) specifically designates the reduction as a tax credit. The amount of the credit is determined by the percentage of the total estimated revenue of the county or municipality from the tax credit fund to the total of the appraised value of taxable property within the county or municipality.

Because the first twenty thousand dollars of a qualifying homestead is exempt from taxation, the same cannot be included in "appraised value of taxable property in the county or municipality." The credit is applied to the tax that is levied upon the remaining value of the homestead that is subject to taxation.¹

CONCLUSION:

Property qualifying for the homestead exemption is not taxable property and hence is not included in determining the ratio for calculating the tax credit provided by the local option sales tax.

JLAJr:wcg

¹We are advised that both the House Ways & Means Committee and the Senate Finance Committee considered the effect of the credit upon property qualifying for the homestead exemption and considered the same to be exempt or excluded from the determination of the tax credit.