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The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

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February 28, 1985

Mr. Jeff Raffensperger
Chief Institution and Lender
Certification Branch
DCPR
Post Office Box 23800
L'Enfant Plaza Station
Washington, D.C. 20026

Dear Mr. Raffensperger:

The South Carolina State Education Assistance Authority has asked that I write you concerning the tax exempt status of the bonds that it issues. This matter is controlled by Section 59-115-170 of the Code of Laws of South Carolina, 1976, which states that the bonds issued by the Authority "...shall have the tax exempt status prescribed by Section 12-1-60." This mandatory language makes clear that the bonds do have tax exempt status under South Carolina law. Sutherland Statutory Construction, Vol. 2A, §57.03; Section 12-1-60 gives tax exempt status to bonds issued by the United States Government and the State of South Carolina and its agencies and political subdivisions. Thus, the tax exempt status of bonds issued by the State Education Assistance Authority is consistent with the public policy of the State of South Carolina expressed in Section 12-1-60, to extend tax exempt status to bonds.

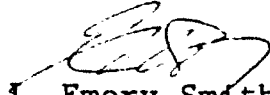
Any requirement that the Authority issue taxable bonds would be inconsistent with South Carolina law and cannot be implemented. Moreover, in effect, implementation would constitute a tax

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on the state because of the higher interest the state would be forced to pay to offset the loss in value of the bonds due to their taxable status. Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 15 S.Ct. 673, 39 L.Ed. 759, reh. 158 U.S. 601, 15 S.Ct. 912, 39 L.Ed. 1108 (1895). See also, 26 U.S.C. § 103(a).

If you have any questions, please do not hesitate to contact me.

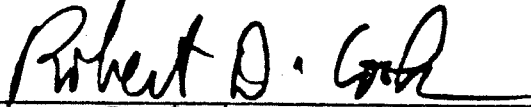
Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr:st

cc: M. William Youngblood, Jr.
William M. Mackie

REVIEWED AND APPROVED:



Robert D. Cook
Executive Assistant for Opinions