

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. *87-71 89-82*

July 30, 1987

SUBJECT: Taxation & Revenue - Municipal License Tax.

SYLLABUS: A company that provides information through telephonic means and has salesmen that solicit business, service accounts and provide expert advice on the acquisition of the receiving equipment to customers within a municipality is in all probability subject to the license tax ordinance of the municipality.

TO: John O. Ehrenclou, Esquire  
Camden City Attorney

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

QUESTION: A company located in Columbia sells information to customers within the City of Camden. The information is presumably delivered by telephonic means to the customers' computers where it is utilized. Is the company subject to the municipal license taxes of the City of Camden?

APPLICABLE LAW: Section 5-7-30, Code of Laws of South Carolina, 1976.

DISCUSSION:

The provisions of Section 5-7-30 that are here applicable provide that:

"All municipalities of the state shall, in addition to the powers conferred to their specific form of government, have authority to . . . levy a business license tax on gross income, . . . "

That power, however, is subject to strict construction.

"The powers of a municipal corporation as to granting or requiring licenses or imposing license taxes must be strictly construed, must be exercised in strict conformity with the terms of the grant, and cannot be enlarged or extended by

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construction or intendment beyond the clear import of the language employed in the grant." Southern Fruit Co. v. Porter, 188 S.C. 422, 199 S.E. 537.

You additionally advise that the company's representatives frequently visit the company's customers or prospective customers within the City of Camden. They solicit business and service the accounts. They arrange for either the purchase or lease by the customer of the computer terminals that are located at the customer's business situs and on which the information is received.

The general rule is stated in 51 Am.Jur.2d, Licenses and Permits, Section 121, page 118, as follows:

"Notwithstanding that an occupation that is fundamentally local in nature requires the performance of certain acts in a number of different municipalities, occupation license charges may be imposed by the municipality within which the occupation has its situs. . . ."

Whether the activities of the company within the City of Camden are sufficient to subject it to the license tax is factual. However, based upon the information furnished and assuming the activity within the City to be continuous rather than isolated, the company would in all probability be subject to the license tax ordinance.<sup>1</sup>

#### CONCLUSION:

A company that provides information through telephonic means and has salesmen that solicit business, service accounts and provide expert advise on the acquisition of the receiving equipment to customers within a municipality is in all probability subject to the license tax ordinance of the municipality.

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<sup>1</sup>It should be noted that the only exemption provided in the statute is for a wholesaler that delivers goods to retailers within the municipality when such wholesaler does not maintain a mercantile establishment or warehouse for the distribution of wholesale goods.