

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 85-58 pg 166

June 7, 1985

SUBJECT: Taxation And Revenue: Effective Date
Of Exemption Of Vehicles For Prisoners Of
War.

SYLLABUS: An Act of 1985, having ratification number
R.67, that exempts a motor vehicle of a
prisoner of war is effective for tax years
beginning on or after April 29, 1985. It is
not retroactive and does not provide for the
refund of taxes paid for tax years prior
thereto.

TO: Honorable Mary Jane McCarter
Greenville County Auditor

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

QUESTION: Does an Act of the General Assembly bearing
ratification number R.67 exempt motor vehicles of prisoners
of war for tax years prior to the effective date of the Act?

APPLICABLE LAW: 1985 Act bearing ratification number R.67,
§ 12-37-2610 et seq., §§ 2-7-10 and 12-37-2610, Code of Laws
of South Carolina, 1976.

DISCUSSION:

The 1985 Act exempts from ad valorem taxation a motor
vehicle or truck not exceeding three-quarters ton of any
member or former member of the armed forces who was a
prisoner of war in World War I, World War II, the Korean
Conflict or the Vietnam Conflict. The person must also be a
resident of this state and a special tag must be issued for
the vehicle by the Department of Highways and Public
Transportation in accordance with Act 446, Acts of 1978.

Section 2 of the Act provides:

"This Act shall take effect upon
approval by the Governor."

The Governor approved the Act on April 29, 1985. The basic
question is whether the exemption is retroactive so as to
authorize the refund of taxes paid for prior tax years. It

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is the opinion of this office that the Act is not retroactive in its application.

Section 2-7-10 of the South Carolina Code provides that:

"No Act or joint resolution passed by the General Assembly shall take effect or become of force until the twentieth day after the day of its approval by the executive, unless some other day be specially named in the body of the act or joint resolution as the day upon which it shall take effect."

Here the Act was effective April 29, 1985 and is prospective in its application.

"There is a presumption that statutory enactments are to be considered prospective rather than retroactive in their operation unless there is a specific provision or clear legislative intent to the contrary." Hyder v. Jones, 271 S.C. 85, 245 S.E.2d 123.

There is no legislative declaration that the statute be retroactively applied.

Additionally, § 12-37-2610 provides that the tax year for motor vehicles licensed for use on the highway begins with the last day of the month in which the license is issued and ends on the last day of the month in which the license expires. It is the status of the property at the beginning of the tax year that determines its taxation. Atkinson Dredging Co. v. Thomas, 266 S.C. 361, 223 S.E.2d 392.

CONCLUSION:

An Act of 1985, having ratification number R.67, that exempts a motor vehicle of a prisoner of war is effective for tax years beginning on or after April 29, 1985. It is not retroactive and does not provide for the refund of taxes paid for tax years prior thereto.

JLAJr/jws