

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 85-134 November 25, 1985

SUBJECT: Taxation and Revenue - Manufacturers' Exemption.

SYLLABUS: Real property owned or leased to a manufacturer that by legislative definition is not used by the manufacturer in the conduct of his business is not exempt from taxation by § 12-37-220A(7) or Article X, § 3(g) of the South Carolina Constitution.

TO: Mr. James L. Brodie, Chief of Operations
Property Division

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

QUESTION: Act 132, Acts of 1985, amends Act 419, Acts of 1984, that amended § 12-43-220 so as to exclude from the classification of property used in the conduct of the business of manufacturers real property owned or leased to that manufacturer and used primarily for (a) research and development, (b) as an office building when not located on the premises or contiguous to the plant site and (c) for warehousing and wholesale distribution of clothing and wearing apparel. Your inquiry is whether this property is exempt under § 12-37-220A(7) because of these amendments.

APPLICABLE LAW: Act 132, Acts of 1985, §§ 12-37-220A(7), 12-43-220(a) & (e), Article X, §§ 1(1) and 3(g) of the South Carolina Constitution.

DISCUSSION:

Article X, § 1(1) provides that:

"All real and personal property owned by or leased to manufacturers, * * * and used by the manufacturer, * * * in the conduct of such business shall be taxed on an assessment equal to ten and one-half percent of the fair market value of such property."

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Section 12-43-220(a) is the statutory codification of this constitutional provision. The effect of the amendments to the section is to exclude from the classification of property used in the conduct of the business of the manufacturer the enumerated property.

The question is thus whether property owned by or leased to a manufacturer and not used in the conduct of that business is exempt by Article X, § 3(g) and § 12-37-220A(7).

These provisions exempt the property of:

"all new manufacturing establishments located in any of the counties of this State after July 1, 1977, * * * and all additions to the existing manufacturing establishments * * * if the cost of such addition is fifty thousand dollars or more. * * *."

A manufacturing establishment is not defined, however, is the place where there is manufacturing.

"The words 'manufacture,' 'manufacturing,' 'manufacturing establishment,' and correlated expressions are difficult if not impossible of exact legal definition, and may mean different things in different statutes. Broadly speaking, however, 'manufacture' means to work, as raw or partly wrought materials, into forms suitable for use, and ordinarily it is necessary that a company process raw material and produce therefrom a different product in order to be entitled to tax exemption as a manufacturer. * * *." 84 C.J.S., Taxation, § 274, p. 520.

In an opinion of this office of February 12, 1974, we concluded that the terms "manufacture", "manufactory", "manufacturing establishments" and other similar terms found in our statutes relating to property tax exemptions were used interchangeably to mean a manufacturing plant. Additionally, our Court in Duke Power Co. v. Bell, 156 S.C. 299, 152 S.E. 865, defined a "manufactory" to mean:

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" * * * primarily a physical plant, or a place or building where manufacturing is carried on."

A manufacturing establishment is thus the physical plant or place where manufacturing is carried on. (See also 26 Words and Phrases, Manufacturing Establishments.)

The property here considered is not used in a manufacturing establishment and hence is not exempt.

This conclusion is supported by settled rules of construction. Related constitutional provisions are to be harmonized and effect given all. Knight v. Hollings, 242 S.C. 1, 129 S.E.2d 746. (For other cases see 6 S.C.D., Constitutional Law, Key 15.) The same rule applies to statute law. (For cases so holding see 17 S.C.D., Statutes, Key 205, et seq.)

The property is now taxed upon an assessment equal to six percent of its fair market value. Article X, § 1(5) of our Constitution provides that:

"All other real property not herein provided for shall be taxed on an assessment equal to six percent of the fair market value of such property."

Section 12-43-220(e) is the statutory codification of this provision.

It would be illogical to conclude that the exemption of the property of manufacturing establishments includes that assessed and taxed in another classification when both the Constitution and statutes provide for the separate classifications.

An additional rule of construction also fortifies this conclusion. If there is doubt in an exemption provision, that doubt is to be resolved against the exemption and in favor of the tax. (For cases see 17 S.C.D., Taxation, Key 204.)

CONCLUSION:

Real property owned or leased to a manufacturer that by legislative definition is not used by the manufacturer in the conduct of his business is not exempt from taxation by § 12-37-220A(7) or Article X, § 3(g) of the South Carolina Constitution.

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