

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 85-135

November 25, 1985

SUBJECT: Taxation and Revenue - Property Tax Exemption For Motor Vehicles For Which A Special License Tag Has Been Issued For Persons Required To Use Wheelchairs.

SYLLABUS: The exemption provided by § 12-37-220 B (27) is limited to those vehicles of persons required to use wheelchairs and for which special tags are issued pursuant to § 56-3-1910. It does not include the vehicles of other handicapped persons.

TO: Honorable Lois B. Sikes
Calhoun County Auditor

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

QUESTION: Is the exemption provided by § 12-37-220 B (27) limited to those persons who must use a wheelchair or does the same include all handicapped persons for which special license tags are issued?

APPLICABLE LAW: Sections 12-37-220 B (27), 56-3-1910, 56-3-1960, 56-3-1950, 12-37-2610, et seq.

DISCUSSION:

The exemption is limited to those persons required to use wheelchairs. It does not extend to other persons who may have been issued special tags, in example, handicapped persons as defined by § 56-3-1950 with license tags issued under § 56-3-1960. Section 12-37-220 B (27) provides for the exemption as follows:

"All personal motor vehicles, owned by persons required to use wheelchairs, for which special license tags have been issued by the Department of Highways and Public Transportation under the provisions of § 56-3-1910 shall be exempt from state, county and municipal taxes."

November 25, 1985

Section 56-3-1910 provides for the licensing of such vehicles and states as follows:

"Upon payment of the regular motor vehicle license fee, the State Highway Department may issue a license tag with a special number or identification indicating that such tag was issued to a person disabled by an impairment in the use of one or more limbs and required to use a wheelchair, but otherwise qualified for a driver's license as determined by the State Highway Department. Each application for such license shall be accompanied by the certificate of a medical doctor as to the permanency of limb impairment."

It is clear from the language of the statutes that before the license or the exemption can issue, the person must be required to use a wheelchair. The South Carolina Department of Highways and Public Transportation must determine whether the conditions for the licensing of the vehicle are met.

The South Carolina Tax Commission, however, must determine whether the conditions for the exemption are satisfied. Section 12-3-145 provides in part that:

"It shall be the duty of the Commission to determine if any real or personal property qualified for exemption from local property taxes under § 12-37-220 in accordance with the Constitution and general laws of the State. ..."

Section 12-3-145 further requires that an application for the exemption be filed with the Tax Commission, and under the section, it must determine whether the property is exempt.¹

CONCLUSION:

The exemption provided by § 12-37-220 B (27) is limited to those vehicles of persons required to use wheelchairs and for which special tags are issued pursuant to § 56-3-1910. It does not include the vehicles of other handicapped persons.

¹Some administrative problems exist in that the Department

Honorable Lois B. Sikes

-3-

November 25, 1985

of Highways and Public Transportation needs a certificate that no taxes are due on the vehicle in order to issue the tags. (See Section 12-37-2610, et seq.) The exemption is, however, conditioned upon the vehicle being so licensed. The Department of Highways and Public Transportation and the South Carolina Tax Commission should, therefore, establish a procedure to satisfy these requirements without undue inconvenience to the qualifying persons and each agency.

JLAJr/jws.