

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. 85-99 p850 September 13, 1985

SUBJECT: Taxation & Revenue - Agricultural Land  
Classifications Within A City.

SYLLABUS: Lands situate within a municipality may be  
classified and taxed within the agricultural  
classification when so assessed by the County  
Tax Assessor.

TO: W. J. McLeod, Jr., Esq.  
Attorney At Law

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

QUESTION: Is the agricultural land classification preclud-  
ed to lands that are situate within the corporate limits of  
a municipality.

APPLICABLE LAW: Article X, § 1(4), § 2a and § 4 of the  
South Carolina Constitution; §§ 12-47-220(d), 12-43-230 and  
12-37-40 of the South Carolina Code of Laws.

DISCUSSION:

Article X, § 1(4) provides that:

"The General Assembly may provide for  
the ad valorem taxation by the State or  
any of its subdivisions of all real and  
personal property. The assessment of  
all property shall be equal and uniform  
in the following classifications:

(4) Agricultural real property which  
is actually used for such purposes shall  
be taxed on an assessment equal to: \* \*  
\*.

Provided, that the General Assembly  
shall by general law provide for a  
penalty system on lands classified as  
agricultural lands to insure the proper  
utilization of this classification."

Article X, § 2(a) provides that:

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"(a) The General Assembly may define the classes of property and values for property tax purposes \* \* \*."

Agricultural real property is defined by § 12-43-230(a) to mean:

"(a) For the purposes of this article, unless otherwise required by the context, the words 'agricultural real property' shall mean any tract of real property which is used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful to man, including the preparation of the products raised thereon for man's use and disposed of by marketing or other means. It includes but is not limited to such real property used for agriculture, grazing, horticulture, forestry, dairying and mariculture. In the event at least fifty percent of a real property tract shall qualify as 'agricultural real property', the entire tract shall be so classified, provided no other business for profit is being operated thereon. The term 'agricultural real property' shall include real property used to provide free housing for farm laborers provided such housing is located on the tract of land that qualifies as agricultural real property."

Section 12-43-220(d)(3) provides for an application for lands within the classification to be made to the County Tax Assessor. In § 12-43-220(d)(2) it is there stated that:

" \* \* \*. Implementation of the provisions contained in this section shall be the responsibility of the [Tax] Commission."

The General Assembly by general law has thus made the South Carolina Tax Commission and the County Tax Assessor responsible for prescribing the lands to be within the agricultural classification. Section 5-7-30 provides the authority

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to a city to levy a property tax, however, such authority is subject to the Constitution and the general laws of this State.

Article X, § 4 of the Constitution provides that the General Assembly:

" \* \* \* shall provide for the assessment of all property for taxation, whether for state, county, school, municipal or any other political subdivision. All taxes shall be levied on that assessment."

The municipality must therefore levy its tax upon that assessment. Section 12-37-40. See also Breedin v. Town of Manning, 168 S.C. 69, 167 S.E. 2.

CONCLUSION:

Lands situate within a municipality may be classified and taxed within the agricultural classification when so assessed by the County Tax Assessor.

JLAJr:wcg