

1983 WL 181830 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 5, 1983

SUBJECT: Revenue and Taxation—Taxation of Property Recently Discovered to Have Had a Tax Situs Within a Municipality.

***1** All property having a tax situs within a municipality is taxable by the municipality unless exempted from such taxation.

Honorable Solomon Blatt
Speaker Emeritus
South Carolina House of Representatives

QUESTION:

During the implementation of a reassessment program in Barnwell County for the 1982 tax year, several parcels or lots of land were found to be situated within the corporate limits of the Town of Williston. In prior years the Town levied no tax upon the property. Your inquiry is whether the property is to be taxed by the Town for the 1982 tax year.

APPLICABLE LAW:

[Article X, §§ 1 and 6 of the South Carolina Constitution](#); §§ 12-37-890 and 5-21-110 of the 1976 Code of Laws.

DISCUSSION:

The Constitution of South Carolina in [Article X, § 6](#), sets forth the authority for the General Assembly to delegate the power of taxation to municipal corporations. The controlling language is that:

‘The General Assembly may vest the power of assessing and collecting taxes in all of the political subdivisions of the State. Property tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes; * * *.’

[Section 5-21-110](#) is a part of the statutory delegation of that authority. The section provides:

‘All municipal taxes levied by cities and towns in this State shall be levied on all property, real and personal, not exempted by law from taxation, situate within the limits of such cities and towns.’ (For case law so holding, see [Germania Sav. Bank v. Town of Darlington](#), 27 S.E. 846, at page 857.)

It is thus expressly provided that all property within the Town be taxed when not exempted from such taxation.

The property here considered is within the Town limits. It has not been previously taxed because of the mistaken belief that the property was without the Town. Such mistaken belief does not negate the tax liability or otherwise exclude the property from taxation. The tax is a debt and a lien upon the property. (See § 12-49-10; [American Surety Co. v. Miller](#), 194 S.C. 221, 9 S.E.2d 433.)

The above is fortified by [§ 12-37-890](#) and [Article X, § 1 of the Constitution](#). The section provides in part that property within the Town is to be taxed by the Town. [Article X, § 1](#) is that the General Assembly may provide for the taxation by the State or its political subdivisions of all property.

CONCLUSION:

All property having a tax situs within a municipality is taxable by the municipality unless exempted from such taxation.

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