

1983 WL 181834 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 6, 1983

***1 SUBJECT: Revenue and Taxation—Income Tax—Nontaxable Incidental Expense Allowance For Public School Teachers.**

A ‘teacher’ for purposes of § 12-7-660(12) is any person who is employed full-time or part-time by a school district to teach or to supervise teaching.

Honorable Dill Blackwell
Member
House of Representatives
District No. 17—Greenville County

QUESTION:

What is the definition of the word ‘teacher’ for purposes of determining those persons eligible for the incidental expense allowance provided by § 12-7-660(12)?

APPLICABLE LAW:

§§ 12-7-660(12), 59-1-130, 59-1-160 and 59-19-90(2), [South Carolina Code](#) of Laws, 1976, as amended.

DISCUSSION:

[Section 12-7-660\(12\)](#) provides as follows:

‘Two hundred dollars per annum of the salary paid by each school district in the State to each teacher in the district regardless of classification is hereby declared to be a nontaxable incidental expense allowance.’

The statute does not define ‘teacher’ and it is thus necessary to determine the meaning of the term. [Southeastern Fire Insurance Co. v. South Carolina Tax Commission](#), 253 S. C. 407, 171 S. E. 2d 355 (1969). Such is governed by the intent of the Legislature. [Bankers Trust of South Carolina v. Bruce](#), 275 S. C. 35, 267 S. E. 2d 424 (1980). The intent may be found in the language used in the statute when construed in light of the purpose of the statute. [Peoples National Bank of Greenville v. South Carolina Tax Commission](#), 250 S. C. 187, 156 S. E. 2d 769 (1967).

The purpose of [§ 12-7-660\(12\)](#) is to exempt from income taxation two hundred dollars paid by a school district to each teacher of the district. A ‘school district’ is a political subdivision of the State and is further defined in [§ 59-1-160](#) as follows: ‘School district’ means any area or territory comprising a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.’

The use of the term ‘school district’ in [§ 12-7-660\(12\)](#) gives some indication as to the meaning of the term ‘teacher’ since only a teacher employed by a school district may receive the exemption. [Section 59-19-90\(2\)](#) gives school trustees who manage and

control the school districts the authority to hire and discharge teachers. 'Teacher' for such purposes is defined at [§ 59-1-130](#) as follows:

'Teacher' means any person who is employed either full-time or part-time by any school district either to teach or to supervise teaching.'

Since the exemption is available only to teachers employed by a school district, the definition of a teacher as provided in [§ 59-1-130](#) is thus controlling. Whether one is entitled to the two hundred dollar exemption is a factual question based upon the individual's contract and duties with the school district. If such requires one to teach or supervise teaching either full-time of part-time, then the exemption is available.

CONCLUSION:

*2 A 'teacher' for purposes of [§ 12-7-660\(12\)](#) is any person who is employed full-time or part-time by a school district to teach or to supervise teaching.

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