

1981 S.C. Op. Atty. Gen. 62 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-40, 1981 WL 96566

Office of the Attorney General

State of South Carolina

Opinion No. 81-40

April 23, 1981

***1 SUBJECT: Taxation—Delegation of Authority to School Districts to Levy and Collect a Sales Tax.**

The General Assembly may delegate authority to the School Districts of the State to levy and collect a sales tax for school purposes.

TO: Honorable Ryan C. Shealy
Senator
Lexington, Aiken, Bamberg, Barnwell
and Edgefield Counties

QUESTION:

Could the General Assembly provide authority by general law for School Districts to levy and collect a sales tax?

APPLICABLE LAW:

Article X of the South Carolina Constitution.

DISCUSSION:

The General Assembly has the exclusive power of taxation except where limited by the Constitution. [Carroll v. York](#), 109 S. C. 1, 95 S. E. 121.

‘The supreme legislative power of the State is vested in the General Assembly; the provisions of our State Constitution are not a grant but a limitation of legislative power, so that the General Assembly may enact any law not expressly, or by clear implication, prohibited by the State or Federal Constitution.’ [Gaud v. Walker](#), 214 S. C. 451, 53 S. E. 2d 316.

We do not know of any constitution limitation regarding the imposition of a sales tax. The authority to levy and collect such a tax may likewise be delegated to the State's political subdivisions under the provisions of [Article X, § 6 of the Constitution](#). (See also [Gaud v. Walker](#), *supra*).

School Districts are declared to be a ‘body politic and corporate’ by § 59–17–10. Section 59–73–20 declares a School District to be a tax district for purposes of taxation for school purposes.

CONCLUSION:

It is therefore the opinion of this office that the General Assembly may delegate authority to the School Districts of the State to levy and collect a sales tax for school purposes.

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