

1979 S.C. Op. Atty. Gen. 20 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-9, 1979 WL 29015

Office of the Attorney General

State of South Carolina

Opinion No. 79-9

January 18, 1979

**\*1 SUBJECT: Property Tax—Roll back taxes on land acquired by Dillon County.**

Property acquired by Dillon County before the date that the property and roll back taxes are a fixed charge for the year is exempt from such taxes.

TO: Honorable W. B. Huggins  
Dillon County Assessor

QUESTION:

Dillon County purchased a 14.71 acre tract of land on January 9, 1979. The land prior thereto had been classified and taxed as agricultural lands. Is there a liability for the roll back tax and, if so, who is required to pay the same?

APPLICABLE LAW:

§ 12-43-220(d)(1) and § 12-37-220(1) of the 1976 Code of Laws and Article X, Section 3(a) of the Constitution of South Carolina, as amended.

DISCUSSION:

The roll back tax is provided by § 12-43-220(d)(1). It is the difference in the amount of tax that was paid because of the agricultural use classification and the amount of tax that would have been due under another classification determined by non-agricultural use. The tax is for the current tax year and up to five preceding tax years.

We have heretofore considered the question of when the tax is due and the person required to pay the same. OAG, April 16, 1976. It was there concluded that the roll back tax was an additional tax 'levied in the tax year that the property is first taxable upon the different use'. The tax year would begin on December 31 of the calendar year in which there was a change in use of the property.

Under such, the roll back tax would be the liability of the person who owns this property on December 31, 1979. If the county is the owner there would, however, be no tax liability provided the property is used exclusively for public purposes. Section 12-37-220(1) and Article X, Section 3(a) specifically exempt property of a county under such circumstances. Statutes and constitutional provisions that grant tax exemption of municipal property are to be liberally construed. *Myrtle Beach v. Holliday*, 203 S. C. 25, 26 S. E. 2d 12. In that case it was held that property acquired by the municipality before the taxes for the year became a fixed charge was exempt from such taxes. Here the taxes are not a fixed charge and therefore the property would be exempt if used exclusively for a public purpose.

CONCLUSION:

Property acquired by Dillon County before the date that the property and roll back taxes are a fixed charge for the year is exempt from such taxes.

Joe L. Allen, Jr.  
Deputy Attorney General

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