

1980 S.C. Op. Atty. Gen. 63 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-31, 1980 WL 81915

Office of the Attorney General

State of South Carolina

Opinion No. 80-31

March 12, 1980

***1 SUBJECT: Road Tax—Authority of County to Collect Road Taxes and Special Provisions for Union County.**

(1) The governing body of a county may levy a tax of one (1) mill upon taxable property. The tax so collected shall constitute a part of the county road fund.

(2) In Union County a commutation tax of one (\$1.00) dollar is levied for roads.

TO: Honorable Gerald W. Burnett

Deputy Comptroller General

QUESTIONS:

1. Is it legal for a county to charge a road tax?
2. Are there any special statutes applicable only to Union County relative to road tax?

APPLICABLE LAW:

[§ 57–19–10, et seq., of the 1976 Code](#) of Laws; Act 535, Acts of 1902; Act 10, Acts of 1933.

DISCUSSION:

The General Assembly, by the 1902 Act, authorized the County Board of Commissioners to annually levy a tax not exceeding one (1) mill on taxable property. The tax constitutes a part of the county road fund. In the same act the General Assembly required all persons of eighteen (18) to fifty (50) years of age to work on the roads. In lieu of the labor the person could pay a commutation tax of \$1.00.

The provision for the tax of one (1) mill upon taxable property is now codified as [§ 57–19–10 of the 1976 Code](#). It is discretionary and whether the same is to be levied is left to an ordinance of the governing body of a county.

The language of the section is that:

‘The governing body of each county may levy annually a sum not exceeding one mill on all the taxable property of the respective counties, which shall constitute a part of the county road fund, to be expended by the governing body in the same manner as is provided by law for the use and expenditure of the commutation tax. Such tax shall be collected at the same time and in the same manner as is provided by law for the collection of taxes levied for ordinary county purposes.’

The tax in lieu of the road labor is now by special act in those counties that continue to levy the tax. In Union County the tax is provided by Act 10, Acts of 1933, that states in part that:

'There shall be collected annually, the sum of One (\$1.00) Dollar Commutation tax in lieu of Road duty; which said sum shall be collected by the Treasurer of Union County at the same time and in the same manner that the Poll tax is due and payable.'

This act by its express language levies the tax of one dollar in lieu of the road labor.

CONCLUSIONS:

(1) The governing body of a county may levy a tax of one (1) mill upon taxable property. The tax so collected shall constitute a part of the county road fund.

(2) In Union County a commutation tax of the (\$1.00) dollar is levied for roads.

Joe L. Allen, Jr.
Deputy Attorney General

ATTACHMENT

OPINIONS OF ATTORNEY GENERAL

PROPERTY TAX

Exemption—Property of Charitable Foundation That is Leased to Lander College

Real property owned by a foundation and leased to others is not exempt from ad valorem taxation.

Homestead Exemption For Part Ownership

*2 When more than one person is the owner of a homestead and some but not all satisfy the other conditions provided by § 12-37-250, a proportional exemption is to be granted. All owners are deemed to possess equal interest and it is that part of the exemption that represents the percentage of ownership of qualified persons to the whole fee or life estate that is to be granted.

Homestead Exemption—Amount Where Qualified Person Owns Part of Homestead In Fee or For Life

When a surviving spouse obtains the complete fee or life estate of a homestead within nine months of the date of death of the deceased spouse and the deceased spouse was entitled to the homestead exemption, the full amount of the homestead exemption is to be granted. If the complete fee or life estate is not granted and the surviving spouse owns part of the homestead in fee or for life and the other conditions for the exemption are satisfied, the amount of the exemption is calculated by applying the spouse's percentage of ownership in the homestead to the full amount of the exemption if the value of the homestead is fifteen thousand dollars or more. If the value of the homestead is less than fifteen thousand dollars, the amount of the exemption would be that percentage of the homestead's value.

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