

1980 S.C. Op. Atty. Gen. 70 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-35, 1980 WL 81919

Office of the Attorney General

State of South Carolina

Opinion No. 80-35

March 24, 1980

***1 SUBJECT: Property Tax—Apportionment of Tax Collections When Part of Public Service District is Annexed to a Municipality**

A tax levied and collected for a public service district is not to be apportioned when a part of the district is annexed to a municipality during the district's tax year.

TO: Honorable Paul Gelegotis
Member
House of Representatives
District No. 115, Charleston County

QUESTION:

The City of Charleston annexed a portion of the geographical area of the James Island Public Service District. The annexation was during the tax year of the service district. Is the City entitled to any of the tax revenue collected for the district for that tax year?

DISCUSSION:

The tax status of property within the district was determined on a date prior to annexation. [Atkinson Dredging, Inc. v. Thomas](#), 266 S.C. 361, 223 S.E.2d 592. Consideration should also be given to [Article X, Section 5 of the South Carolina Constitution](#) that provides:

'No tax, subsidy or charge shall be established, fixed, laid or levied, under any pretext whatsoever without the consent of the people or their representatives lawfully assembled. Any tax which shall be levied shall distinctly state the public purpose to which the proceeds of the tax shall be applied.'

The tax would have been levied by the district and not the municipality. We find no statutory authority that requires the apportionment of the tax and in the absence of an agreement the same is not required.

'Where part of an existing township is detached and the part so detached is organized as a new township, no provision being made for the division or apportionment of the assets of the old township, it has been held that the new township may not recover of the old any part of the cash in the hands of the county treasurer and due the old township at the time of the division, or received by the treasurer for it after the division, from tax levies made prior to the division.' 56 Am.Jur.2d, [Municipal Corporations](#), § 94, p. 148.

CONCLUSION:

A tax levied and collected for a public service district is not to be apportioned when a part of the district is annexed to a municipality during the district's tax year.

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