

1980 WL 121188 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 22, 1980

***1 SUBJECT: Administrative Law—South Carolina Manual of Use Values.**

The Use Value Manual of the South Carolina Tax Commission is a regulation within the meaning of Section 1-23-10(4).

To: Robert J. Sheheen
Representative

QUESTION:

Is the Use Value Manual for crop and timber lands of the South Carolina Tax Commission a regulation as the term is defined by Section 1-23-10?

STATUTES AND CASES:

South Carolina Code of Laws (1976), §§ 1-23-10, 12-3-140, 12-43-210 and 12-43-220; [Piercy v. Tarr](#), 343 F.Supp. 1120 and [National Student Association v. Hershey](#), 410 F.2d 1103, 1115.

DISCUSSION:

The Manual's introduction provides in part that:

In accordance with [Section 12-43-220 of the 1976 Code](#) as amended, the South Carolina Tax Commission has prepared a Use Value Manual for Assessors. It is to be used in determining use value of of crop and timberland which meet the qualifications required by law. The use of the manual is on a voluntary basis for the tax year 1980, however, it is mandatory for the 1981 tax year . . .

Section 12-43-210 provides:

All property shall be uniformly and equitably assessed throughout the State. The South Carolina Tax Commission (commission) shall promulgate rules and regulations to insure such equalization which shall be adhered to by all assessing officials in the State.

[Section 12-43-220\(d\)\(2\)](#) regarding the use value of agricultural lands provides in part that:

Implementation of the provisions contained in this section shall be the responsibility of the Commission.

A regulation is defined by Section 1-23-10(4) of mean:

. . . each agency statement of general public applicability that implements or prescribes law or policy or practice requirements of the agency . . .

Section 12-3-140(3)(b) provides that the Commission shall:

formulate and prescribe rules to govern such assessors and boards of equalization in the discharge of their duties which shall be obeyed and carried out by such assessors and boards of equalization.

The Manual declares that adoption was pursuant to [§ 12-43-220](#) and is a mandatory guide for use by assessors in determining the use value of agricultural lands for tax purposes. We have found no case on point, however, directives to State Selective Service Directors by the National Director were held to be regulations in the case of [Piercy v. Tarr](#), 343 F.Supp. 1120. In [Piercy](#), the court favorably quoted from the case of [National Student Association v. Hershey](#), 410 F.2d 1103, 1115 when it stated that: [I]t matters little whether [the] directive is a 'rule', an 'order', or a set of 'instructions', or only a *sui generis* 'directive', whatever it is in law, it purports to be an authoritative declaration of policy issued for the guidance of the [Selective Service] System's Line officers.

Here the Manual set forth the method to determine the use value of agricultural lands, a duty imposed upon the Commission. It constitutes the Commission's statement to implement the valuation of agricultural lands upon the use of such lands.

CONCLUSION

*2 The Use Manual of the South Carolina Tax Commission is a regulation within the meaning of Section 1-23-10(4).

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