

1980 S.C. Op. Atty. Gen. 90 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-44, 1980 WL 81927

Office of the Attorney General

State of South Carolina

Opinion No. 80-44

April 25, 1980

***1 SUBJECT: Property Tax Exemption-Property of a Foundation Held For Future Use**

The property of a charitable trust or foundation is exempt from ad valorem taxation when its present use is exclusively for a charitable or public purpose. Property held for prospective use would not be exempt.

To: South Carolina Tax Commission

QUESTION:

The Carolina Research and Development Foundation owns certain vacant real property in Columbia. Is such property subject to taxation?

APPLICABLE LAW:

[Article X, Section 3\(d\), South Carolina Constitution](#), and [§ 12-37-220\(4\), 1976 Code of Laws](#).

DISCUSSION:

Both the constitutional and statutory provisions provide for an exemption from ad valorem taxation of:

‘All property of all charitable trusts and foundations used exclusively for charitable purposes.’

The Foundation has as its declared purpose the promotion of the educational purposes of the University of South Carolina by acquiring property that will be used by the University. In conformance with that purpose the Foundation acquired certain lands charitable purposes.’ is whether the property to be exempt must be ‘used’ exclusively for charitable and public purposes or whether property ‘held’ for such possible future use qualifies.

We do not find a case from our courts that treats this issue. The general rule is stated in 84 C.J.S., [Taxation](#), § 282, p. 557, as follows:

‘Except where statutes have a different effect, exemption of property as used for charitable purposes is generally held to require direct or actual use for such purposes, * * *.’

See also 84 C.J.S., [Taxation](#), § 295, p. 608.

In 71 Am.Jur.2d, [State and Local Taxation](#), § 372, it is stated that:

‘When property is exempt from taxation only where used for designated purposes, the general rule is that mere prospective use of property for such purposes does not exempt it from taxation. Thus an intention to use property for charitable purposes is not contemplated by a statute exempting such property as may be exclusively used for institutions of public charity.’

For cases see [54 A. L. R. 3rd 9](#).

CONCLUSION:

The property of a charitable trust or foundation is exempt from ad valorem taxation when its present use is exclusively for a charitable or public purpose. Property held for prospective use would not be exempt.

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