

1980 S.C. Op. Atty. Gen. 100 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-51, 1980 WL 81934

Office of the Attorney General

State of South Carolina

Opinion No. 80-51

May 12, 1980

**\*1 SUBJECT: Property Tax—Fire District—Equality and Uniformity Required.**

A property tax levied for the support of a fire district or fire service area of a county must be equal and uniform by classification as provided by Article X, Section 6 and Section 12-43-220 as to property within the district.

To: Sylvan L. Rosen, Esq.  
Georgetown County Attorney

**QUESTION:**

A rural fire district is to be created by the governing body of a county. Must the tax within the district be equal and uniform?

**APPLICABLE LAW:**

[Article X, Section 6 of the South Carolina Constitution](#); [Sections 4-9-30](#) and [4-19-10](#), et seq., 1976 Code of Laws.

**DISCUSSION:**

The Constitution in [Article X, Section 6](#) requires uniformity and equality of taxation within the political division levying the same. [Section 4-9-30\(5\)](#) authorizes the creating of special tax districts and [Section 4-19-10](#) also authorizes the creation of fire districts. The tax levied in the district would generally not be a county tax. In considering whether such a tax was a county tax for purposes of an exemption from county taxes, our court stated:

'The ordinance established the Service Area as a taxing district and specifically included and excluded certain areas of the county. The district pays for the fire protection it receives, while areas not receiving the service are not taxed. The less than countywide scope of the tax removes it from the plain meaning of the exemption statute. The Fire District Tax was properly collected by the County and the Taxpayers are not entitled to a refund.' [Owen Industrial Products, Inc. v. Marjorie H. Sharpe, Treasurer of Lexington County](#), Opinion No. 21123, Filed January 16, 1980.

Our Constitution in [Article X, Section 1](#) provides for the classification of property for tax purposes and Section 12-43-220 further provides statutory authority for the same. A state may classify property and persons for taxation, however, the tax must be equal and uniform within the class.

"Generally, within constitutional limitations, the state has power to classify persons or property for purposes of taxation, and the exercise of such power is not forbidden by the constitutional requirement that taxation be uniform and equal, provided the tax is uniform on all members of the same class and provided the classification is reasonable and not arbitrary.' 84 C.J.S. Taxation § 36, p. 112.' [Newberry Mills, Inc. v. Dawkins](#), 259 S.C. 7, 190 S.E.2d 503.

**CONCLUSION:**

A property tax levied for the support of a fire district or fire service area of a county must be equal and uniform by classification as provided by [Article X, Section 6](#) and [Section 12](#)–43–220 as to property within the district.

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