

1980 S.C. Op. Atty. Gen. 108 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-61, 1980 WL 81944

Office of the Attorney General

State of South Carolina

Opinion No. 80-61

May 26, 1980

**\*1 SUBJECT: Property Tax—Improper Classification of Land as Agricultural.**

When land previously classified as agricultural is acquired by a utility and used in the conduct of its business, there is a change in use and the roll-back tax provided by § 12-43-220(d)(4) is applicable.

TO: Mr. W. David Bell  
Lexington County Assessor

**QUESTION:**

Land was owned by a subsidiary corporation and classified as agricultural for tax purposes. Ownership of the land was later transferred to the parent corporation, a utility company, that returned the same to the South Carolina Tax Commission. Is the roll-back tax applicable?

**APPLICABLE LAW:**

§ 12-43-220(a) and (d)(4) of the 1976 Code of Laws.

**DISCUSSION:**

Section 12-43-220(d)(4) provides in part that:

‘When real property which is in agricultural use and is being valued, assessed and taxed under the provisions of this article, is applied to a use other than agricultural, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes, \* \* \*.’

Section 12-43-220(a) provides:

‘All real and personal property owned by or leased to manufacturers and utilities and used by the manufacturer or utility in the conduct of such business, shall be taxed on an assessment equal to ten and one-half percent of the fair market value of such property.’

When the utility acquired ownership of the property and used it in the conduct of its business, such evidenced a change in the use of the property. It is assumed for purposes of this opinion that the property is in fact used in the conduct of the utility's business. The provisions of § 12-43-220(d)(4) are therefore applicable and the roll-back tax should be collected.

**CONCLUSION:**

When land previously classified as agricultural is acquired by a utility and used in the conduct of its business, there is a change in use and the roll-back tax provided by § 12-43-220(d)(4) is applicable.

Joe L. Allen, Jr.  
Deputy Attorney General

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