

1979 S.C. Op. Atty. Gen. 66 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-48, 1979 WL 29054

Office of the Attorney General

State of South Carolina

Opinion No. 79-48

March 13, 1979

***1 SUBJECT: Property Taxes**

It is our opinion that the General Assembly must approve legislation to exempt persons qualifying for the homestead exemption from school taxes. Without legislation, school boards cannot exempt persons from school taxes.

TO: Honorable Carl M. Hust, Chairman
Lexington County School District Five

QUESTION:

Could any one of the school districts in this State exempt persons who qualify for the homestead exemption from paying all school taxes without legislation providing for the exemption?

DISCUSSION:

In your request for an opinion on the above, you have referred to House Bill 2032 which is proposed as an amendment to § 12-37-250 and would provide for an exemption from school taxes for persons who qualify for the homestead exemption. The opinion requested is whether or not this legislation is necessary for any one of the school districts to exempt property through action of the Board of Trustees.

The power to assess and collect taxes must be conferred by the General Assembly to school districts as this authority is not inherent ([Article X, § 6, South Carolina Constitution](#)). In [White v. Town Council](#), 34 S. C. 242, 13 S. E. 416; [Floyd v. Perrin](#), 30 S. C. 1, 8 S. E. 14; [Carroll v. York](#), 109 S. C. 1, 95 S. E. 121, the Court recognized that the exclusive power of taxation was within the General Assembly. [Newberry Mills, Inc. v. Dawkins](#), 259 S. C. 7, 190 S. E. 2d 503, recognized the right of the State to classify persons and property for purposes of taxation, but stated that in the exercise of such power the provisions relating to uniformity and equality of taxation must not be violated.

In [Thorne v. Seabrook](#), 264 S. C. 503, 216 S. E. 2d 177, it was held that the assessment of taxes is not a local function but is a state function. Legislation respecting Charleston County was declared to be unconstitutional.

CONCLUSION:

It is our opinion that the General Assembly must approve legislation to exempt persons qualifying for the homestead exemption from school taxes. Without legislation, school boards cannot exempt persons from school taxes.

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