1979 WL 42955 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
April 23, 1979

***1** James Verner, Esquire
Harley & Verner
Post Office Box 484
Newberry, South Carolina 29108

Dear Mr. Verner:
In response to your request for an opinion from this Office as to whether or not the City of Newberry, South Carolina, can impose a business license tax upon the Farmers Mutual Insurance Association of Newberry based, in part, upon premiums collected within the City by the business on risks located both within and without the municipal corporate limits, I agree with Mr. Hundley's conclusion that it can.

The prevailing case law holds that a gross receipts or gross income tax, such as that authorized by Section 5-7-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, can be imposed by a municipality upon the gross receipts of a business collected within the municipality, but earned both within and without the taxing municipality. See, e.g., Dravo Corp. v. Tacoma, 496 P.2d 504; Stork Diaper Service, Inc. v. Richmond, 173 S.E.2d 859; Suburban Title & Investment Corp. v. District of Columbia, 180 F.2d 387; Cedar Hill Cemetery Corp. v. District of Columbia, 124 F.2d 286; Food Center of St. Louis, Inc. v. Village of Warson Woods, 277 S.W.2d 573; New Yorker Magazine, Inc. v. Gorosa, 144 N.E.2d 367 ('all receipts paid at home office for sale of advertising space in nationally circulated magazine were subject to gross receipts tax levied by municipality in which home office was located, without allocation as to source of payment); 16 McQUILLIN MUNICIPAL CORPORATIONS § 44.190 (1972 revised vol.).

I am returning the copy of the Newberry Business and Professional License Ordinance which you forwarded to me.
With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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