

1977 S.C. Op. Atty. Gen. 272 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-338, 1977 WL 24677

Office of the Attorney General

State of South Carolina

Opinion No. 77-338

October 31, 1977

*1 Property which is owned by the First Baptist Church of Clemson and occupied by the Pickens County Commission on Alcohol and Drug Abuse is not exempt from 1977 taxation.

TO: State Senator

QUESTION

You have inquired:

The First Baptist Church of Clemson owns property which joins the church. It is designated to be for protection and future church expansion. In 1975 the church entered into an informal agreement with the Pickens County Commission on Alcohol and Drug Abuse for the use of the property as a 'half-way house'. There is no formal lease or consideration for the property. Is the property subject to ad valorem taxation in 1977?

STATUTE

Article X, Section 3 of the South Carolina Constitution.

DISCUSSION

Article X, Section 3 states:

'There shall be exempt from ad valorem taxation:

(c) all property of public libraries, churches, parsonages and burying grounds * * *.

The exemptions provided in sub items (c) and (d) for real property shall not extend beyond the buildings and premises actually occupied by the owners of such real property.'

The constitutional provision provides as a condition to the exemption that the church both own and occupy the property. In [Trustees of Wofford College v. City of Spartanburg](#), 201 S. C. 315, 23 S. E. 2d 9, the court, construing language of Article X, Section 4 of the Constitution, nearly identical to the above, recognized the condition and further said that the General Assembly was without authority to expand the exemption by statute beyond the constitutional exemption.

As recently as August 11, 1977, the Supreme Court of South Carolina affirmed the principle that a statute granting an exemption from taxation is ordinarily construed against a claimed exemption. [Marlow v. First Baptist Church of Lyman](#), 269 S. C. 219, 237 S. E. 2d 57. (Copy enclosed). This case decided against a claimed exemption for a house owned by the church and occupied by the church's full-time minister of music.

Relying on the rule of strict construction and the language of Article X, Section 3, advise that the property in question is not in our opinion exempt.

CONCLUSION

Property which is owned by the First Baptist Church of Clemson and occupied by the Pickens County Commission on Alcohol and Drug Abuse is not exempt from 1977 taxation.

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