

1976 S.C. Op. Atty. Gen. 12 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4230, 1976 WL 22851

Office of the Attorney General

State of South Carolina

Opinion No. 4230

January 13, 1976

***1 A residence owned by a college and occupied by a faculty member which reasonably serves a college purpose is exempt from taxation.**

Richland County Attorney

An opinion was issued by this office on April 22, 1970, providing in effect that housing furnished and used as the residence of teachers in the Catholic Schools of Charleston was exempt from property taxation. We enclose a copy of that opinion and there appears no substantive difference in that circumstance and the colleges referred to in your letter. Article 10, Section 4 of the Constitution, exempts the property of ‘* * * all schools, colleges and institutions of learning, * * *, except where the profits of such institutions are applied to private uses.’ The Article limits the exemption of real property to that ‘actually occupied.’ We assume for purposes of this opinion that, if there are profits to the college, the same are not ‘applied to private uses’ and the property involved would be occupied if reasonably necessary for the college.

‘Buildings used by an educational institution as residences for students, employees, or officers are exempt from taxation when reasonably necessary therefor.’ 84 C.J.S., *Taxation*, Section 288(d), p. 582.

Faculty housing was specifically exempted in the case of *Elder v. Trustees of Atlanta University*, 194 Ga. 716, 22 S. E. 2d 515, 143 A.L.R. 268, and the court there stated:

‘In this State the exemption from taxation, so far as applicable here, only covers ‘all buildings erected for and used as a college, * * *’ and provided that such property ‘is not used for purposes of private or corporate profit or income’. Code, Section 92–201. Under the stipulation contained in the record, these dwellings are not used for private or corporate profit. They were erected by the college to be occupied by the college professors. They are not remote from, but are in close proximity to, the main campus. The stipulation further recites, that it is a part of the duty of the members of the faculty who occupy these residences to exercise supervision and control of the deportment of the students of the college, that this duty was facilitated by placing them near the student dormitories; that there were no facilities for housing the married members of the faculty in the dormitories, and that proper housing facilities were not available nearer the campus; and that the residences of the faculty members are often used by the students for conferences with the faculty members. In our opinion, these houses are buildings erected for and used as a college. It may be that a college could operate without a central heating plant, or without dormitories, or without a chapel building, but this would not prove that a central heating plant, or dormitories, or a chapel building erected for and used by the authorities as a part of the equipment of the institution was not a part of the college and therefore was subject to taxation. So with these dwelling houses. Some discretion must be given to the governing authorities of the institution to determine what buildings are necessary or proper to further their educational objectives. The fact is, that the dwellings were erected by the college authorities for college purposes, which our law says shall be exempt from taxation.’

***2 The exception is when the residence is not reasonably essential to the occupant's duties.**

‘* * *. However, exemption has been denied where the residence is not reasonably essential to performance of the occupant's institutional duties, where such a dwelling is occupied purely or primarily for private purposes, * * *.’ C.J.S., *Taxation*, Section 288(d).

It is thus necessary to determine whether the dominate purpose of the residence is for the benefit of the college or the faculty member.

The basic criterion to be determined is whether the residence reasonably serves a college purpose or a private purpose. if the former, it is exempt; and if the latter, it is taxable. This criterion would exist even if the housing is in lieu of a salary adjustment, however, if the dominate purpose is for a salary adjustment the property would be taxable. *Burris v. Tower Hill School Ass'n*, 6 W. W. Harr., Del., 577, [179 A. 397](#).

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