

1976 WL 30587 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 7, 1976

*1 Property owned by the FHA on December 31 and subsequently conveyed on January 17 of the tax year is not subject to taxation.

Honorable William J. McLeod
Member
House of Representatives

QUESTION

The Farmers Home Administration agreed to sell certain property situate in Dillon County to an individual. The grantor prepared the deed in its Columbia office and such preparation included the signing of the deed by authorized personnel of the Agency. The deed so prepared and dated December 20, 1974, was then forwarded to the Farmers Home Administration office in Dillon and on January 17, 1975, the required down payment of a portion of the sales price was made and the deed then delivered to the grantee. Section 65-1522 exempts from property taxation 'All property owned exclusively by the United States in this State'. Your question is whether, under the facts outlined, the property was on December 31, 1975, owned by the United States and thus exempt from taxation or whether the same was owned by the new grantee and subject to taxation.

STATUTES INVOLVED

Sections 65-1522(17), 65-1611 and 65-1644.

DISCUSSION

Section 65-1611 makes the holder of the 'fee or for life * * *' liable for the taxes; Section 65-1644 requires every person to list for taxation property owned by such person on December 31 preceding the tax year and Section 65-1522(17), as stated, exempts property of the United States from taxation.

We presume and accept the fact that the property was that of the United States on December 31, 1974, unless the deed dated December 20, 1974, transferred the same to the individual. Title to real property can only be transferred by a written instrument and that instrument is never executed without delivery.

'Unless a grantor delivered the deeds that he had drawn up either to the grantees or in escrow, and unless he parted with them intending to part with control of them, the deeds were never fully executed, and the grantor did not divest himself of the fee in the land, but if he did deliver the deeds in this manner the fee passed immediately to the grantees named.' [Watson v. Cox](#), 117 S. C. 24, 108 S. E. 168.

Here, there was no delivery of the deed or any transfer of possession of the property until January 17, 1975, when the down payment was made. Additionally, you advised that the Farmers Home Administration continued the property in inventory until the January 17, 1975 date.

CONCLUSION

It is therefore the opinion of this office that, under the limited facts as stated, there was no transfer of the property until January 17, 1975 and, because of such, the property was exempt from taxation for the 1975 tax year.

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