

1979 S.C. Op. Atty. Gen. 82 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-66, 1979 WL 29071

Office of the Attorney General

State of South Carolina

Opinion No. 79-66

May 16, 1979

***1 SUBJECT: Property Taxation of Streets, Roadways, Etc., When Privately Owned.**

Privately owned roadways, streets, etc., are subject to property taxation.

TO: Henry B. Richardson, Jr., Esq.
Sumter County Attorney

QUESTION:

A person divides a tract of land into several smaller parcels and conveys these parcels separately to his children. A roadway or access street is reflected on the plat, however, the same has not been given to nor accepted by the State or its political subdivisions as a public access road or street. Is the land within the platted street or roadway taxable?

APPLICABLE LAW:

[Article X, Sections 1 and 3 of the South Carolina Constitution](#); §§ [12-43-220](#), [12-37-210](#) and [12-37-220 of the 1976 Code of Laws](#).

DISCUSSION:

[Section 12-37-210](#) provides that all real property in the State is subject to taxation. [Section 12-43-220](#) provides in part that:

‘All property presently subject to ad valorem taxation shall be classified as follows: * * *.’

[Section 12-37-220](#) provides for the exemption of certain property, not including, however, the property here described. [Article X, Section 1](#) provides for the taxation of real property by classes and [Section 3](#) provides for certain exemptions, again not including the property here described.

The property here involved is that of the person holding title thereto. It is not that of the county or State, nor has there been a dedication of its use to the public.

“Dedication’ of property involves not only offer to dedicate, but an acceptance thereof, either express or implied, by public authority having power to pass upon the matter.’ [Anderson v. Town of Hemingway](#), 269 S.C. 351, 237 S.E.2d 489.

See also [Carolina Land Company, Inc. v. Bland](#), S.C. 98, [217 S.E.2d 16](#); [8 S.C.D., Dedication](#), Keys 30 and 31, and [23 Am.Jur.2d, Dedication](#), §§ 41 and 42.

The property has not been accepted by the State or its political subdivision and is thus subject to taxation.

'The decision in the reported case (*Iowa Loan & To. Co. v. Polk County*, ante, 1532) to the effect that, to work an exemption from taxation of property dedicated as a street, acceptance of such dedication is essential, is supported by the only other case which seems to have passed upon the question, it having been held in *Traylor v. State* (1898) 19 Tex. Civ. App. 86, 46 S. W. 81, that a tax lien on property cannot be defeated by proof of a prior dedication thereof to the public as a 'square', unless it appears that the public owned or claimed the land by virtue of such dedication at the time the tax was levied; in other words, the dedication of the property for use as a public square did not exempt it from taxation, in the absence of an acceptance thereof by the public.' [5 A. L. R. 1537](#).

The filing of the plat does not alter the above.

'The approval of a plat by the local planning commission shall not be deemed to constitute or effect an acceptance by the municipality or the county or the public of the dedication of any street or other ground shown upon the plat.' [§ 6-7-1070, 1976 Code of Laws](#). (See also § 4-27-180.)

CONCLUSION:

***2** Privately owned roadways, streets, etc., are subject to property taxation.

Joe L. Allen, Jr.
Deputy Attorney General

1979 S.C. Op. Atty. Gen. 82 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-66, 1979 WL 29071