

1979 WL 43002 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 17, 1979

***1 SUBJECT: Property Tax—Timber Leases**

The taxation of timber deeds as provided by Sections 12-37-680, 12-37-690 and 12-37-700 is not in conflict with Article X of the Constitution or Act 208, Acts of 1975, as amended by Act 618, Acts of 1976. The taxation so provided is therefore applicable to such deeds.

Honorable James M. Waddell, Jr.
Chairman
Tax Study Commission

QUESTION:

Are timber deeds precluded from ad valorem property taxation by reason of Article X of the Constitution, as amended, and Act 208, Acts of 1975, as amended by Act 618, Acts of 1976?

APPLICABLE LAW:

[Article X, Sections 1 and 2](#) of the Constitution, §§ 12-37-680, 12-37-690, 12-37-700 and 12-43-220 of the 1976 Code of Laws.

DISCUSSION:

Section 12-37-680, 12-37-690 and 12-37-700 relate to the taxation of timber deeds. Section 12-37-680 provides in part that: 'Such deed, lease or contract concerning timber or timber rights shall have the character of and be considered real and not personal property. * * *.'

Section 12-37-690 provides that the deeds, et cetera, shall be:

'* * * entered upon the tax books of such county and shall be subject to all statutory and other provisions relating to the return, assessment, equalization and taxation of real property and the collection of taxes thereon in this State, * * *.'

[Article X, Section 2\(c\)](#) provides that:

'Statutes pertaining to the methods of assessment of property for ad valorem taxation not in conflict with this article shall continue in force until changed by an Act of the General Assembly.'

This deed is thus taxable as real property unless such taxation conflicts with Article X of the Constitution and we find no conflict.

[Article X, Section 1](#) authorizes the General Assembly to tax real property within certain classifications. [Section 2](#) authorizes the General Assembly to define the classes and values and as quoted above subsection (c) thereof continues the taxation of the timber deeds.

It was held in the case of [Hamilton Ridge Lumber Corp. v. Southern Cotton Oil Co.](#), 271 F. 934, that:
'A contract by which in terms defendant sold to complainant all its timber of certain kinds situate in South Carolina, to be cut and delivered by defendant at complainant's mill, the purchase price to be measured by the logs, which were to be measured and paid for as delivered, held one for the sale of standing timber, which, under the law of South Carolina, carries an interest in real estate, and a breach of which by defendant may be enjoined.' (Emphasis added) See also [Richardson v. Cooler](#), 115 S. C. 102, 104 S. E. 305, 13 S. C. D., Logs and Logging, Keys 2 and 3.

The deed is therefore not intangible personal property that is exempt from taxation. The taxation of the deeds is likewise not precluded by Section 12-43-220 nor is the same exempt by reason of Section 12-37-220(13).

CONCLUSION:

The taxation of timber deeds as provided by Sections 12-37-680, 12-37-690 and 12-37-700 is not in conflict with Article X of the Constitution or Act 208, Acts of 1975, as amended by Act 618, Acts of 1976. The taxation so provided is therefore applicable to such deeds.

***2** Joe L. Allen, Jr.
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