

1979 WL 43449 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 6, 1979

**\*1 SUBJECT: Property Tax Exemption—1979 Tax Year—Suspension of Application and Other Procedural Requirements.**

Joint Resolution S. 577 suspends for the 1979 tax year the requirement that an application for a property tax exemption be made to the South Carolina Tax Commission and for the Commission's approval of the same. The procedure relating to property tax exemption that was used for tax years prior to 1979 may be adopted for the 1979 tax year.

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**QUESTION:**

By Joint Resolution S. 577 the General Assembly has provided for the exemption of certain property notwithstanding the provisions of § 12-3-145. The questions are:

1. Does this Resolution eliminate all responsibility of the Commission with respect to taking applications for exemptions and certifications to County Officials for the tax year 1979?
2. If so, which County Official will be responsible for granting exemptions as provided for by [§ 12-37-220 of the Code](#)?
3. What will be the appeal procedure if handled by County Officials?

**APPLICABLE LAW:**

Article X, Section 2; [§§ 12-3-145](#) and [12-37-220 of the 1976 Code](#) of Laws, and Joint Resolution S. 577 of 1979.

**DISCUSSION:**

The Resolution provides:

‘Notwithstanding the provisions of [Section 12-3-145 of the 1976 Code](#) all classes of property exempted from ad valorem taxation pursuant to [Section 12-37-220](#) shall be tax exempt through December 31, 1979, whether or not such property has been specifically approved for exemption by the Tax Commission pursuant to [Section 12-3-145](#). Beginning with the tax year 1980 the provisions of [Section 12-3-145](#) shall apply and applications for exemption for that tax year and thereafter shall be made pursuant to that section.’

The Resolution has the formalities of an Act, however, whether an Act or a Joint Resolution the effect is the same. [Article III, Section 18 of the Constitution](#) provides that Acts and Joint Resolutions have the force of law. The effect of

S. 577 is to amend for 1979 [Section 12-3-145](#) that requires that the Tax Commission pass upon the exemption and that an application be made therefor before the same can be granted.

It should also be noted that [§ 12-37-220 of the 1976 Code](#) was amended by Act 621, Acts of 1978. The exemptions provided by the section prior to amendment were repealed as of March 1, 1978 by [Article X, Section 2 of the Constitution](#). The exemptions therefore referred to in the Resolution are those provided by Act 621, Acts of 1978, and not those that were repealed by the Constitution.

We consider the questions and the Resolution under a settled rule of construction:

'In construing a statute, it is proper to consider the history of the period in which it was passed.' [City of Spartanburg v. Blalock](#), 223 S.C. 252, 75 S. E. 2d 361.

Here existing exemptions had been repealed on March 1, 1978. The 1978 Act provided for certain exemptions, however, required as conditions therefor the applications and approval by the Tax Commission. These two requirements were first provided in the 1978 Act. It is general knowledge that applications have not been filed for many exempt properties and that the processing of applications on hand is necessarily time consuming. The purpose of the Resolution is thus to suspend for the 1979 tax year the need to make the application and obtain the approval of the Commission. The Resolution is silent as to who now makes the determination. For purposes of administration it is suggested that the procedure used for determining exemptions for the 1978 and earlier tax years be used, when possible, for the 1979 tax year. Generally, such has been done by the county auditor and an appeal or review of that could be made by the Commission under the powers conferred by § 12-3-140.

#### CONCLUSION:

\*2 Joint Resolution S. 577 suspends for the 1979 tax year the requirement that an application for a property tax exemption be made to the South Carolina Tax Commission and for the Commission's approval of the same. The procedure relating to property tax exemption that was used for tax years prior to 1979 may be adopted for the 1979 tax year.

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