1979 S.C. Op. Atty. Gen. 165 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-117, 1979 WL 29120

Office of the Attorney General

State of South Carolina
Opinion No. 79-117
October 3, 1979

***1 SUBJECT: Gasoline Taxes**

(1) The gasoline tax is levied partially for highway use, county road use, secondary road use and water recreational resources.

(2) Taxes collected at marinas may be distributed for road use if the levying statute so provides.

TO: Honorable B. Hicks Harwell
Representative
Florence County

QUESTIONS:

(1) What use is made of the gasoline tax?

(2) Is it illegal for the tax collected at marinas to be applied for highway use?

STATUTES:

Sections 12–37–380 and 12–37–390, 1976 South Carolina Code of Laws.

DISCUSSION:

The gasoline tax is levied pursuant to §§ 12–27–230 and 12–27–240 of the Code. The total per gallon tax is ten cents (8.09 cents levied by § 12–27–230 and 1.91 cents levied by § 12–27–240) and is levied on all gasoline sales whether or not for road use or other use; i.e., farm use and marine use. One-half of one percent of 7.09 cents collected under § 12–27–230 is distributed to the counties for special water recreation purposes or, at the option of certain counties, for refund to commercial and charter boat operators. The balance after the deducting of the one-half percent of the 7.09 cents per gallon tax is distributed for State Highway Department uses. One cent of the § 12–27–230 tax is distributed to the counties for county roads. The 1.91 cents per gallon tax levied in § 12–27–240 is for South Carolina secondary roads.

CONCLUSION:

The gasoline tax is levied partially for highway use, county road use, secondary road use and water recreational resources.

DISCUSSION:

On the second question, the Constitution, Article X, Section 3, states that taxes shall be levied pursuant to law 'which shall distinctly state the object of the same; to which object the tax shall be applied'. This section requires taxes to be used only for the purposes or objects for which the tax was levied. It is the prerogative of the General Assembly to decide upon the legislation imposing the tax and the object of the tax. State v. Osborne, 193 S. C. 158, 7 S. E. 2d 526 (1940).

CONCLUSION:

Taxes collected at marinas may be distributed for road use if the levying statute so provides.

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