

1978 WL 34884 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 2, 1978

***1 SUBJECT: Property Tax Application for Agricultural and Residential Classification.**

A county, pursuant to Section 1 of Act 438 of the 1978 Acts, may extend the date for residential and agricultural classification for 1977 taxation and may provide the latest date for such application provided such is before July 1, 1978.

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Supervisor
Reassessment

QUESTION:

In Section 1 of Act 438 of 1978, if a governing body of a county extends the time for filing for the agricultural or residential property classification for the tax year 1977, may this extension be limited to a shorter period than the allowable date of July 1, 1978?

STATUTE:

Act 438 of the 1978 Acts.

DISCUSSION:

Section 1 of Act 438 of the 1978 Acts provides:

‘Notwithstanding the provisions of [Section 12-43-220 of the 1976 Code](#) which require property owners to apply by May first of the tax year for the classification of agricultural or residential property, any county governing body may by ordinance or administrative act extend the filing date for application for agricultural and/or residential classification of property for the tax year 1977. In the event any such property is classified as agricultural or residential property for the tax year 1977 as a result of the provisions of this section, the county shall rebate to the taxpayer concerned or grant to him a tax credit on 1978 taxes for any tax paid in excess of the amount which would have been payable for such property had it been classified as agricultural or residential property in the initial assessment after timely application. The provisions of this section shall be effective through July 1, 1978, only. When any rebate or tax credit is given the taxpayer may be charged a processing fee not to exceed ten dollars as determined by the county governing body.’ (Emphasis added)

A county, pursuant to this section, may extend the time for filing for both the residential and agricultural special classifications for the tax year 1977. A county has only that authority granted by the General Assembly, however, and is limited in its authority to grant the extension to the year 1977. See [Carroll v. York, 109 S. C. 1, 95 S. E. 121.](#)

The statute further must be read as a grant to the county of authority. From its context and from the use of the word ‘may’, it is clear that the granting of an extension is within the discretion of the county and may be denied. In our opinion this authority permits the county to set the date for application to any reasonable time following the passage of the Act before July 1, 1978. The absolute limit, however, is July 1, 1978, as clearly set forth.

CONCLUSION:

A county, pursuant to Section 1 of Act 438 of the 1978 Acts, may extend the date for residential and agricultural classification for 1977 taxation and may provide the latest date for such application provided such is before July 1, 1978.

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