

1978 S.C. Op. Atty. Gen. 110 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-81, 1978 WL 22562

Office of the Attorney General

State of South Carolina

Opinion No. 78-81

May 4, 1978

***1 SUBJECT: Property Tax Ratio—No Authority for County to Change and Election Once Made to Implement Ratios At One Time or Over a Transition Period.**

Laurens County, having elected to implement the ratios provided by [§ 12-43-220 of the 1976 Code](#) for the 1977 tax year, is bound by such election and cannot now amend the election for the 1978 tax year to provide for a gradual transition to such ratios.

TO: Honorable David S. Taylor
Senator
Laurens County

QUESTION:

Laurens County elected to implement the ratios provided for in [§ 12-43-220](#) without a transition period for the 1977 tax year. You request the opinion of this office of whether the county may now amend this so as to provide for the transition period for the 1978 and subsequent tax years.

STATUTE:

[§ 12-43-220, 1976 Code of Laws of South Carolina.](#)

DISCUSSION:

[Section 12-43-220](#) provides in part that:

‘Notwithstanding any of the provisions of this act, on the effective date thereof, if it is found that there is a variation between the ratios being used and those in this section, the county may provide for a gradual transition to the ratios as herein provided for over a period not to exceed seven years * * *. Provided, however, that notwithstanding the provisions of this section, a county may at its discretion, immediately implement the assessment ratios contained in * * *.’

The county therefore had the right to elect the immediate implementation of the ratios or to provide for the same over a transition period. Having elected the immediate implementation, the county is bound thereby and cannot now change to a transitional period.

‘Frequently, what is often spoken of in judicial opinions as a choice between remedies is in reality a choice between substantive rights. The distinction is one not infrequently obscured, and yet it is important that it is heeded. An election between substantive rights goes not to the form, but to the substance, affecting some right selected, whereas an election of remedies goes to the forms of action or procedure, and has no reference to a choice between substantive rights. Although the courts are not in agreement whether an election of an inconsistent remedial right is conclusive prior to judgment, if a litigant chooses one of two or more substantive rights, he is bound by his choice, regardless of whether he obtains

a judgment.' 25 Am. Jur. 2d, Election of Remedies, § 7, p. 651. See also 8 S. C. D., Election of Remedies, Key 9, and Volume 14, Words and Phrases, Election of Remedies.

CONCLUSION:

Laurens County, having elected to implement the ratios provided by [§ 12-43-220 of the 1976 Code](#) for the 1977 tax year, is bound by such election and cannot now amend the election for the 1978 tax year to provide for a gradual transition to such ratios.

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Deputy Attorney General

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