

1978 S.C. Op. Atty. Gen. 186 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-153, 1978 WL 22621

Office of the Attorney General

State of South Carolina

Opinion No. 78-153

August 14, 1978

***1 SUBJECT: Property Tax-Exemptions for Manufacturers**

Manufacturing establishments may continue to receive exemptions granted under statutes repealed by Article X of the Constitution until the exemptions would have expired under such repealed statutes.

TO: Roy McBee Smith, Esquire
Spartanburg County Attorney

QUESTION:

Does [§ 12-37-225 of the 1976 Code](#) of Laws continue to grant an exemption to manufacturers for other than 'county taxes'?

APPLICABLE LAW:

[§ 12-37-225 of the 1976 Code](#) of Laws; [Article X, § 3 of the Constitution of South Carolina](#); Act 237, Acts of 1963, codified as § 65-1570 of the 1962 Code of Laws.

DISCUSSION:

The 1963 Act provides an exemption to certain manufacturers in Spartanburg County for 'county taxes'. 'County taxes' are defined by the Act to mean 'the general county levy, library levy, metropolitan sewer district levy, and water district levy; or any other levy.' Some of these taxes are not within the usual definition of a county tax.

The question is whether [§ 12-37-225](#) causes the survival of the exemption to include taxes other than what are customarily 'county taxes'. [Section 12-37-225](#) provides as follows:

'Notwithstanding any other provision of law, when any new or enlarged manufacturing establishment is exempted from county taxes pursuant to Article X of the Constitution or legislation implementing such constitutional authorization and the term 'county taxes' has been specifically defined by law in legislation effective on January 1, 1977, as such exemption applies to a specific county, such definition of county taxes shall apply to all exemptions granted to exempted manufacturing establishments in the county concerned regardless of whether or not the specific county legislation containing the definition is repealed.'

The section was effective on March 23, 1977, and its purpose was to make the exemptions survive. The heading of the Act is:

'An Act To Amend The Code Of Laws Of South Carolina, 1962, By Adding Section 65-1524.2, So As To Provide That The Definition Of County Taxes As It Applies To Tax Exemptions For New Or Enlarged Manufacturing Establishments In A Particular County Shall Continue To Apply In That County If The Law Containing Such Definition Is Repealed Pursuant To The Provisions Of The Constitution.'

Article X of our Constitution was amended, however, and the amendment was ratified by Act 72, Acts of 1977, which provides in [Section 3](#) that:

‘All exemptions not specifically provided for or authorized in this article shall be repealed March 1, 1978.’

The exemption provided by the 1963 Act was therefore repealed as was the definition of the term ‘county taxes’. [Article X](#) mandates that all exemptions granted by the General Assembly be uniform to similar property throughout the State. It would not square with [Article X](#) after amendment for a legislative grant to exempt property in one county while taxing similar property in another county.

*2 An exception is provided, however, in the amended article which provides a saving clause for industries that had the exemption on March 1, 1978. The section provides in part that:

‘* * * all manufacturing establishments and all additions to existing manufacturing establishments exempt under existing statutes shall be allowed their exemptions provided for by statute until such exemptions expire.’

Clearly an exemption granted by the 1963 Act would continue until the time period is exhausted.

CONCLUSION:

Manufacturing establishments may continue to receive exemptions granted under statutes repealed by Article X of the Constitution until the exemptions would have expired under such repealed statute.

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