

1978 S.C. Op. Atty. Gen. 194 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-166, 1978 WL 22634

Office of the Attorney General

State of South Carolina

Opinion No. 78-166

October 4, 1978

***1 SUBJECT: Property Taxation—Equality and Uniformity**

The Town of Fountain Inn is without authority to levy a tax (special levy) only upon the residents of the Town that reside in Laurens County for the purpose of funding recreational parks and facilities.

TO: Paul E. Gault, Jr., Esq.

Attorney for the Town of Fountain Inn

QUESTION:

Part of the Town of Fountain Inn is in Greenville County and part in Laurens County. Greenville County levies a tax for recreational purposes while Laurens County does not. Can the Town therefore levy a tax only on the residents residing in Laurens County to help in providing recreational parks and facilities for these residents?

APPLICABLE LAW:

[Article X, Section 6 of the Constitution](#) and [Section 5–21–220 of the 1976 Code](#) of Laws.

DISCUSSION:

The Constitution provides in [Article X, Section 6](#) that:

‘The General Assembly may vest the power of assessing and collecting taxes in all of the political subdivisions of the State. Property tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes; provided, that on properties located in an area receiving special benefits from the taxes collected, special levies may be permitted by general law applicable to the same type of political subdivision throughout the State, and the General Assembly shall specify the precise condition under which such special levies shall be assessed. * * *.’

We find no legislation nor has any been called to our attention that authorizes a municipality to impose the special levy. Without such authorization the special levy cannot be assessed.

Additionally, Section 5–21–110 provides:

‘All municipal taxes levied by cities and towns in this State shall be levied on all property, real and personal, not exempt by law from taxation, situate within the limits of such cities and towns.’

CONCLUSION:

The Town of Fountain Inn is without authority to levy a tax (special levy) only upon the residents of the Town that reside in Laurens County for the purpose of funding recreational parks and facilities.

Joe L. Allen, Jr.
Deputy Attorney General

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