

1978 S.C. Op. Atty. Gen. 204 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-177, 1978 WL 22645

Office of the Attorney General

State of South Carolina

Opinion No. 78-177

October 24, 1978

***1 SUBJECT: Property Tax—Exemption for Manufacturers.**

A manufacturing plant that was exempt under the 1970 Act is entitled to the unexpired years of exemption granted by the Act. A new plant constructed after March 1, 1978, would be limited, however, to the exemption provided in the Constitution and the 1978 Act. The exemption of nursing homes granted by the 1970 Act was repealed by the Constitution and cannot be granted for the 1979 and subsequent tax years.

TO: James A. Bell, Esq.
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QUESTION:

Act 1209, Acts of 1970, 56 Stat. 2604, provides a property tax exemption for certain manufacturing plants and nursing homes constructed in Dorchester County after May 1, 1970. The exemption is for a term of five or ten years dependent upon the costs. Will such manufacturing plants and nursing homes continue to receive the exemption for 1979 and subsequent tax years?

APPLICABLE LAW:

[Article X, § 3 of the South Carolina Constitution](#), as amended, and an Act of the General Assembly of 1978 bearing ratification number 793.

DISCUSSION:

The Constitution provides that:

‘There shall be exempt from ad valorem taxation:

(g) All new manufacturing establishments located in any of the counties of this State after July 1, 1977, for five years from the time of establishment and all additions to the existing manufacturing establishments located in any of the counties of this State for five years from the time each such addition is made if the cost of such addition is fifty thousand dollars or more. Such additions shall include additional machinery and equipment installed in the plant. Provided, however, that the exemptions authorized in this item for manufacturing establishments, and additions thereto shall not include exemptions from school taxes or municipal taxes but shall include only county taxes. Provided, further, 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;’

Section 2 of the above-referred to Act amends [§ 12–37–220 of the 1976 Code](#) to provide:

‘Pursuant to the provisions of [Section 3 of Article X of the State Constitution](#), there shall be exempt from ad valorem taxation;

(7) all new manufacturing establishments located in any of the counties of this State after July 1, 1977, for five years from the time of establishment and all additions to the existing manufacturing establishments located in any of the counties of this State for five years from the time each such addition is made if the cost of such addition is fifty thousand dollars or more. Such additions shall include additional machinery and equipment installed in the plant. Provided, however, that the exemptions authorized in this item for manufacturing establishments, and additions thereto, shall not include exemptions from school taxes or municipal taxes but shall include only county taxes. Provided, further, that all manufacturing establishments and all additions to existing manufacturing establishments exempt under statutes in effect February 28, 1978, shall be allowed their exemptions provided for by statute until such exemptions expire;'

*2 Article I, § 3 provides in the next to the last paragraph that:
'All exemptions not specifically provided for or authorized in this article shall be repealed March 1, 1978.'

The exemption provided by the 1970 Act was therefore repealed March 1, 1978. Without the saving clause of the Constitution and the Act, the exemption granted by the 1970 Act would not continue for manufacturers that had qualified and received the exemption in the 1978 and prior tax years. No similar provision exists, however, for a nursing home and the exemption granted by the 1970 Act is therefore repealed by the Constitution for the 1979 and subsequent tax years.

CONCLUSION

A manufacturing plant that was exempt under the 1970 Act is entitled to the unexpired years of exemption granted by the Act. A new plant constructed after March 1, 1978, would be limited, however, to the exemption provided in the Constitution and the 1978 Act. The exemption of nursing homes granted by the 1970 Act was repealed by the Constitution and cannot be granted for the 1979 and subsequent tax years.

ADDED COMMENT:

The 1978 Act provides in Section 2(2) an exemption for:
'All property of * * * all charitable institutions in the nature of hospitals and institutions caring for the infirmed, the handicapped, the aged, children and indigent persons, except where the profits of such institutions are applied to private use; * * *.'

If the nursing home meets the conditions above, the exemption granted by the 1978 Act may be extended. An application for the exemption will have to be made to the South Carolina Tax Commission and the Commission will after investigation determine if the same can be granted.

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