

1978 S.C. Op. Atty. Gen. 211 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-185, 1978 WL 22653

Office of the Attorney General

State of South Carolina

Opinion No. 78-185

November 3, 1978

***1 SUBJECT: Interest—Deductibility As Administrative Expense For Estate Tax Purposes.**

Interest remitted because of late payment of estate tax is an expense of administration only when incurred by reason of necessity for the estate.

Director
Estate and Gift Tax Division

QUESTION:

When the Farmers Home Administration owns property on the taxing date and later conveys such property, is a subsequent purchaser liable for the taxes for the years which the Farmers Home Administration held the property and does a lien follow the property?

STATUTE:

[Section 12-37-220\(11\) South Carolina Code](#), 1976.

DISCUSSION:

All real and personal property is taxable under the general property tax laws. An exemption, however, is provided in subsection (11) of [§ 12-37-220 of the South Carolina Code](#) for property owned by the United States. This includes its instrumentalities. This also squares with the principle that the state may not subject the United States or its instrumentalities to taxation. [McCulloch v. Maryland](#), 4 Wheat. 316, 4 L. Ed. 579.

In [Atkinson Dredging Co. v. Thomas](#), 266 S. C. 361, 223 S. E. 2d 592, it was held that the liability for taxes attaches to the property as of December 31 preceding the year. Clearly the tax liability is that of the owner of property as of such date. Therefore, taxes could not be levied at a later date upon a subsequent purchaser.

CONCLUSION:

When property that is owned by the Farmers Home Administration and exempted from taxation because of such ownership is conveyed by the Farmers Home Administration subsequent to the taxing date, there is no authority to tax the property to the subsequent purchaser or owner or attach a lien for the years that the property is exempt.

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