

1975 S.C. Op. Atty. Gen. 15 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3932, 1975 WL 22230

Office of the Attorney General

State of South Carolina

Opinion No. 3932

January 14, 1975

**RE: Request for charter and 501 tax exemption**

\*1 Dr. Maceo M. Nance, Jr.  
President  
South Carolina State College  
Orangeburg, SC 29117

Dear Dr. Nance:

South Carolina State College was established by Act of the General Assembly in 1896. The College was originally named the Normal, Industrial, Agricultural and Mechanical College for the Colored Race. 22 STAT 173 (1896). In 1954 the College was renamed South Carolina State College. 48 STAT 1722 (1954).

Mr. Nicholson, Director of Public Relations for State College has asked that I determine whether or not State College has a 501(c)(3) federal tax exempt status as a non-profit organization and if so to forward a copy of the same. The College does not have a 501(c)(3) exemption, nor is it required to have one.

Pursuant to [Section 115\(2\)\(1\) of the Internal Revenue Code](#), '[g]ross income does not include income derived from . . . the exercise of any essential governmental function and accruing to a State or Territory or any political subdivision thereof, . . .'. Education, the purpose for which State College was founded and is operated, is an essential governmental function. Furthermore, State College is a political subdivision of the State of South Carolina in that it is created by the State,<sup>1</sup> owned by the State, and funded and operated with funds appropriated from the State Treasury. The College's employees are State Employees who participate in the State Retirement System. Finally, the governing body of the College, its Board of Trustees is elected by the General Assembly of the State.<sup>2</sup> The State of South Carolina does not operate its colleges and universities for profit, but for the benefit of its people.

Under [Section 170\(c\)\(1\) of the Internal Revenue Code](#), gifts to the College are considered 'charitable contributions' and are tax deductible. Reading [Section 115\(a\)\(1\)](#) and [Section 170\(c\)\(1\)](#) together, it is clear that South Carolina State College is a political subdivision of the State of South Carolina and is, therefore, non-profit within the meaning of [Section 501\(c\)\(3\) of the Internal Revenue Code](#).

Due to the fact that State College is an 'agency' of the State of South Carolina, the College is not required to obtain a [Section 501\(c\)\(3\)](#) exemption in order for gifts to it to be deductible. However, if this letter does not satisfy the Foundation from which the College hopes to receive a grant, please contact me, or in the event I am not in the Office, Mr. Joe Wilson.

Yours very truly,

M. Elizabeth Crum  
Assistant Attorney General

Footnotes

- 1 Section 22–551, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended) provides: ‘There shall be established within the State a normal, industrial, agricultural and mechanical college for the Higher education of the youth of this State, and such college shall be known as South Carolina State College.’  
Section 22 –1, CODE OF LAWS OF SOUTH CAROLINA (1962) provides: ‘There shall be universities and colleges as follows: . . .; another in or near the town of Orangeburg, styled South Carolina State College; . . .’  
Section 22 –21, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended) provides: ‘The several State-supported institutions of higher learning, within the contemplation of this chapter, are declared to be: . . . South Carolina State College.’
- 2 See Section 22–552, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended).

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