

1975 WL 174051 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 2, 1975

\*1 Honorable H. Parker Evatt  
House of Representatives  
Richland County - District 71  
Post Office Box 363  
Columbia, South Carolina 29202

Dear Mr. Evatt:

Mr. McLeod has handed this writer your letter of December 27, 1974, for attention and reply. You request our opinion of whether property that is situate in Lexington-Richland School District No. 5 and located in Richland County can be taxed at a greater proportion of its value than property of the same class within the District that is located in Lexington County. You advise that property located in Richland County (including that situate within the school district) is taxed on an assessment equal to 8.3% of its fair market value, while property in Lexington County (including that in the school district) is taxed on an assessment equal to 4% of its fair market value.

The provisions of the South Carolina Constitution, Article 10, Section 1, require that all property within the same class be equally and uniformly taxed. [Holzwasser v. Brady](#), 205 S. E. 2d 701.

"Equality of the burden of taxation is a fundamental requirement of the Constitution." [Parker v. Bates](#), 216 S. C. 52, 56 S. E. 2d 723.

These requirements are satisfied if the tax is equal and uniform within the political subdivision of the state upon which imposed.

"\* \* \* there is a compliance with the requirements of the Constitution, in this respect, whenever the tax is uniform in the particular subdivision of the state upon which it is imposed." [Nettles v. Cantwell](#), 112 S. C. 24, 99 S. E. 765.

"Manifestly, this provision does not mean that all counties shall have the same tax levy, but rather that uniformity of taxation must be coextensive with the territory to which the tax applies." [Smith v. Robertson](#), 210 S. C. 99, 41 S. E. 2d 631. (For other cases, see 17 S.C.D., Taxation, Key 44)

School Districts have long been recognized as separate taxing districts in this State.

"But like counties, the individual districts are each separate taxing districts under Article X, Section 5, \* \* \*." [Hay v. Leonard](#), 212 S. C. 81, 41 S. E. 2d 653.

At one time the bonded debt limit for school districts in Lexington County was 15% of the assessed value of taxable property therein, while the limitation in Richland County was 20% of such value. In an action involving the debt limit of this school district under the above conditions, it was held that the limitation was 15% rather than the 20%. [Mungo v. Shedd](#), 247 S. C. 195, 146 S. E. 2d 617. The Court limited the bonded debt to that applicable to Lexington County which had the effect of equalizing the debt liability of all property in the district. The limitation for bonded indebtedness for the district is now 30% of the assessed value and was occasioned by a constitutional amendment which has been interpreted by the Courts. [Holland v. Kilgo](#), 253 S. C. 1, 168 S. E. 2d 569.

\*2 The Supreme Court, by dictum, in the case of [Boatwright v. McElmurray](#), 247 S. C. 199, 146 S. E. 2d 569, commented on unequal taxation of property in a school district caused by the boundaries of the school districts overlapping county lines and stated that the same raised serious constitutional questions regarding equality and uniformity.

Under the settled principles of law, as above quoted and referred to, it is the opinion of this office that all property in the district must be taxed on an assessment that is equal and uniform both as to the rate of taxation and as to the proportion of value to which the same is applied. Taxation as outlined in your letter would therefore be in conflict with the constitutional provisions relating to equality and uniformity.

Yours very truly,

Joe L. Allen, Jr.  
Assistant Attorney General

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