

1975 S.C. Op. Atty. Gen. 104 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4033, 1975 WL 22330

Office of the Attorney General

State of South Carolina

Opinion No. 4033

June 11, 1975

***1 The term ‘those engaged in the calling or profession of teachers or ministers of the gospel’ set forth in Section 47–271 of the Code is to be construed as either teachers of the gospel or ministers of the gospel and is not to be construed as public school teachers.**

Charleston County Attorneys

You advise that your firm represents the City of Hanahan and request the opinion of this office concerning Section 47–271 of the South Carolina Code of Laws. The Section authorizes municipalities having over one thousand inhabitants to impose a business and occupation tax, however, excepts therefrom ‘those engaged in the calling or profession of teachers or ministers of the gospel.’ Your request is whether the exclusion is limited to school teachers or whether the same includes other teachers, such as piano tutors or teachers.

The Legislature has the exclusive power to tax in this State which it may delegate to cities and towns. *Caroll v. York*, 109 S. C. 1, 93 S. E. 125. The power so delegated must be strictly construed and followed. *Southern Fruit Co. v. Porter*, 188 S. C. 422, 199 S. E. 537.

The exception in the Section creates an exemption from taxation which is also subject to a strict construction. ‘This Section must be given its plain, ordinary meaning and construed strictly against a claimed exemption.’ *Chronicle Publishers, Inc. v. South Carolina Tax Commission*, 244 S. C. 192, 136 S. E. 2d 261.

The term ‘of the gospel’ must be considered as applying to both teachers and ministers.

‘Where several words are followed by a clause which is applicable as much to the first and other words as to the last, the natural construction of the language demands that the clause be read as applicable to all.’ *Porto Rico Ry. Light & Power Co. v. Mor.*, 253 U. S. 345, 40 S. Ct. 516; *United States v. Standard Brewery*, 251 U. S. 210, 40 S. Ct. 139.

It is therefore the opinion of this office that the exemption is for teachers of the gospel and ministers of the gospel.

The opinion is fortified by the fact that the City cannot impose the tax upon public school teachers or other public officials or employees when performing official duties.

‘License fees cannot be exacted of public servants or those engaged in public works.’ 33 *Am. Jur.*, *License*, Section 8, page 332, citing *Figg v. Thompson*, 105 Ky. 509, 49 S. W. 202, 44 L.R.A. 135, 88 *Am. St. Rep.* 316.

Likewise, other teachers that are employed by an established school would not be within the taxing provisions since they would be employees of the school the same as employees of other establishments or businesses within the municipality.

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