

1975 S.C. Op. Att. Gen. 107 (S.C.A.G.), 1975 S.C. Op. Att. Gen. No. 4036, 1975 WL 22333

Office of the Attorney General

State of South Carolina

Opinion No. 4036

June 17, 1975

**\*1 Charges of Barnwell County for the use of its landfill when paid by the City of Barnwell do not constitute double taxation and are not prohibited.**

Barnwell County Attorney

We regret that we have not been able to respond earlier to your letter of May 19, 1975, wherein as attorney for the City of Barnwell you request the opinion of this office concerning the following:

‘The County of Barnwell charges the City of Barnwell an annual fee for the right to dump garbage and trash at the County Landfill. The County provides the service of collecting garbage and trash from large metal containers located throughout the rural sections of the County at no charge to the rural tax payers of the County, thus creating a situation where the tax payers who reside in the City of Barnwell are required to pay the City for their own trash collection as well as paying the County through their taxes for the collection of the garbage and trash of those who reside outside the City Limits in the rural sections of the County.’

While the subject matter relates to garbage collection, the same is much broader and includes streets and highways, police protection, health care and all other services furnished separately by the county, the city, and other political entities. The county and the city are political subdivisions of the State and have only the authority expressly granted by the Constitution or the General Assembly.

The County is authorized to collect and dispose of solid waste and to impose a service charge by Section 32–1280.1, and the fact that the residents of the city pay taxes that are used to pay the service charge while residents of the county only pay taxes would not result in the double taxation.

‘It is not invalid double taxation to impose state and local taxes upon the same property in the same year. This principle is equally applicable with respect to taxation by more than one local political subdivision. Thus, imposition with proper legislative authority by a local taxing unit, such as a county, town or highway district, of a tax for a special purpose, such as the construction or maintenance of roads or highways, upon the property situated in a smaller local taxing unit, such as a city located within the borders of the larger unit, is not invalid as double taxation because the same property is also taxed, or is subject to taxation, by the smaller taxing unit for the same or similar purposes.’ 71 Am. Jur. 2d, *State and Local Taxation*, Section 35.

See also 84 C.J.S., *Taxation*, Section 43, page 140, and cases annotated thereunder. Annotations are additionally found in [2 A.L.R. 746](#) and [123 A.L.R. 1462](#), and the following is quoted from [2 A.L.R. 751](#):

‘In *Shoshone Highway Dist. v. Anderson* (Idaho) *supra*, the rule was stated as follows: ‘Where . . . the legislature of the state, exercising its power over the subject of taxation, passes an act which provides for the creation of a municipality such as a highway district, and authorizes such district to tax the property of said district for the purpose of raising funds for the construction and maintenance of highways within such district, and such district organizes as such, and includes an incorporated city, town, or village, which city, town, or village has, by reason of its incorporation as such, power also to levy a tax within such city, town, or village, the taxation made by the highway district under the authority of the legislature is not a double taxation upon the property within the city, town, or village. The construction of highways

leading to a city, town, or village from a county district is not only a benefit to the country outside of such city, town, or village, but is a like benefit to such city, town, or village, and such taxation, being one based upon benefits, is not prohibited by any constitutional provision.”

\*2 It is therefore the opinion of this office that the charge to the city for use of the county's landfill does not result in double taxation to the residents of the city. The opinion herein is fortified by the fact that the trash containers are available for use by all of the public including residents and nonresidents of the county and city, while generally the actions by the city is limited to its residents.

Joe L. Allen, Jr.  
Assistant Attorney General

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