

1975 S.C. Op. Atty. Gen. 220 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4154, 1975 WL 22449

Office of the Attorney General

State of South Carolina

Opinion No. 4154

October 9, 1975

\*1 The property in the area of Charleston County that was annexed to Colleton County in 1975 is to be assessed (valued) by Charleston County and taxed (levy of tax mills) by Colleton County and taxes then prorated between counties.

TO: Mr. Guy A. Pitts, Jr.

Director

Property Tax Division

### QUESTION

The South Carolina Tax Commission is required to assess for taxation certain classes of property. An area seceded from Charleston County and was annexed to Colleton County during the 1975 calendar year. You request the opinion of the office of whether the tax values of property within the area that is assessed by the South Carolina Tax Commission is to be certified to Charleston or Colleton County.

### STATUTES INVOLVED

Section 10 of Part II of Act 237, Acts of 1975, the State Appropriation Bill, that provides:

‘When an area of a county is annexed to another county, property taxes shall be levied based upon the last assessment of property values and levied according to the millage of the annexing county and shall be prorated between the two counties for the taxable year.

‘Any delinquent taxes on property in the area annexed shall be executed upon by the annexing county and the actual amount of the tax due and the amount of the penalties due at the time of annexation, upon collection, shall be paid to the county from which the area was annexed. All costs of execution and collection shall be deducted and retained by the annexing county.

‘If the sale of property for payment of delinquent taxes is necessary, the sale shall be held in the annexing county in the same manner as all other such sales are held.’

### DISCUSSION

It is evidence that the section contains no express language of whether Colleton or Charleston County is to make the levy and collect the tax.

The obvious purpose of the section, however, was to provide for a tax value and a millage rate to be used in the taxation of this property. The section provides that the tax values of the property as ascertained for Charleston County is the assessment value and that the millage rate to be applied thereto is that set for Colleton County. Whether the actual levy is to be made by Charleston or Colleton County is not expressly set forth in the section, however, can be fairly implied therefrom.

'In construction of statute that which is fairly implied is as effective as if expressed.' [Gaffney v. Mallory](#), 186 S. C. 337, 195 S. E. 840.

It would be illogical to conclude that the General Assembly intended the property owner to have the responsibility of determining whether Charleston or Colleton County was the proper authority to lawfully levy and collect the tax. The collection of delinquent taxes is that of Colleton County although the tax may belong to Charleston. It is thus reasonable to conclude that the General Assembly intended the two counties to coordinate their acts in levying and collecting the tax by Charleston County furnishing the tax values of the property to Colleton County and for Colleton County to make the levy and collection and rebate to Charleston County its proportionate share of the tax.

#### OPINION

**\*2** The assessment by the South Carolina Tax Commission should therefore be certified to Charleston County and that County should forward the same to Colleton County.

Joe L. Allen, Jr.  
Assistant Attorney General

1975 S.C. Op. Atty. Gen. 220 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4154, 1975 WL 22449