

1974 S.C. Op. Atty. Gen. 52 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3700, 1974 WL 21219

Office of the Attorney General

State of South Carolina

Opinion No. 3700

January 28, 1974

***1 A procedure providing for the division of the geographical area of a county into four sections and for the reappraisal of the property in one section each year is not, per se, invalid, because the property values throughout the county must be equalized and this equalization would eliminate any unequal taxation that may be caused by this method of reappraisal.**

Member

House of Representatives

Greenwood County

Your letter of January 17, 1974 to Mr. McLeod has been handed this writer for attention and reply. You advise that the Greenwood County Council has instructed the Greenwood County Tax Assessor's office to reassess one-fourth of the County each year for property tax purposes, and you request the opinion of this office of whether this method denies equal protection of the laws and equality and uniformity in taxation to all property owners in Greenwood County.

We interpret the term 'reassess' to be an assessment for prospective taxes and not according to its strict definition that means to repeat the assessment for the same taxes in the same tax year. *51 Am. Jur., Taxation, Section 790*. The Assessor would therefore make an actual appraisal of the real property in one-fourth of the County for any one tax year and would use other available information to assess the property in the remaining areas of the County for the same tax year.

This question has not been considered by our Supreme Court; however, in the case of [*Hampton v. Dodson*, 240 S. C. 532, 126 S. E. 2d 564](#), the constitutionality of an act establishing the tax assessor's office for School District One of Richland County and providing for the 'reassessment' of property within the School District was involved. Richland County, at that time, had four separate school districts and the legislation was attacked on several constitutional grounds, including those for equality and uniformity in taxation, it being contended that the same was invalid because property in only one district of the four was being 'reassessed.' The Supreme Court did not consider such issues, however, because the same were either abandoned by the plaintiffs or because the Court found that it was not necessary to resolve these issues in order to dispose of the case.

Both the Master in Equity and the Trial Judge had held the act to be constitutional on the grounds that the same was but a part of an overall scheme for the taxation of property in Richland County. It was held that the rights for uniformity and equality and equal protection were safeguarded by the Board of Equalization for Richland County and the right of an aggrieved property owner to appeal. The same requirements are found for property owners in your County in Act 572, Acts of 1967. The auditor is required 'on or before the first Tuesday of March, or as soon thereafter as may be practicable in each year, lay before the tax assessor the returns of all property, both real and personal, made to him or by him where owner or his agent fails to make a return, together with a list of all property, both real and personal, which he can discover that has not been previously returned or listed for taxation, as required by law.'

***2** The assessor must 'keep the tax system up-to-date and maintain a current system of maps, cards, and records with respect to the valuation, assessment and reassessment of all property for tax purposes; and adjust the records from time to time to reflect shifting or changing value of the property,' and also 'to impartially and fairly assess and reassess the value of all property for tax purposes and enter each valuation upon the returns and lists furnished by the auditor.'

Notice must be given a property owner when a valuation has been increased by a sum greater than \$100 and Section 5 of the Act creates the Board of Equalization for Greenwood County. While the duties of the Board of Equalization are not expressly stated in the act, it is assumed that they include the duties conferred by Section 65–1894 of the 1962 Code, which provides for the equalization of the valuations fixed by the tax assessor. The act further creates the Greenwood County Board of Tax Appeals with the right of any aggrieved property owner to appeal thereto and then to the South Carolina Tax Commission.

It is therefore the duty of the Greenwood County Board of Equalization to equalize the values of the properties throughout the County for purposes of taxation, therefore, valuations of the property in that portion ‘reassessed’ would be equalized with the valuations of the property in the remaining portion. It is the opinion of this office that the procedure prescribed by Council would not ‘per se’ result in discrimination.

Before the procedure would be invalid it would be necessary for a property owner to show that the procedure, in fact, is discriminatory and that he was injured thereby. In the absence of such a showing, and based upon the Master's Report and the Order of the Trial Judge in the *Hampton v. Dodson* case, it is the opinion of this office that the method prescribed by the Council would not violate the requirements of the Constitution for equality and uniformity in taxation.

Notwithstanding the above, however, the Supreme Court of Virginia, in the case of *Perkins v. County of Albemarle*, 198 S. E. 2d 626 (1973), held a similar procedure to be invalid, stating:

‘However, we agree with plaintiffs that the piecemeal, segmental assessment methodology defendant has employed in implementing the system violates the mandate of Virginia Constitution (1902), Section 1683 and ‘all taxes . . . shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax. . . .’

‘Code Section 58–769.2 conforms to the constitutional mandate. It requires that once the new system is adopted ‘[a]ll real estate shall . . . be assessed as of January first of each year . . .’ Here, that requirement was ignored; assessments were made from year to year in installments. Part of the county's real estate was assessed effective January 1, 1969, part effective January 1, 1970, and part effective January 1, 1972. The remainder of the real estate ‘within the territorial limits of the authority levying the tax’, nearly half the total tax parcels, is yet to be assessed.’

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