1974 WL 27629 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
February 12, 1974

***1** For purposes of property tax exemptions, the terms 'manufacturer', 'manufactory', 'manufacturing establishment' and other similar terms are used interchangeably and mean a manufacturing plant.

John M. Spratt, Jr., Esq.
York County Attorney
Post Office Drawer 299
York, South Carolina 29745

Dear Mr. Spratt:
Reference is made to your letter of February 11, 1974, wherein you request the opinion of this office concerning Section 65-1527. This section provides an exemption for 'all additions to existing manufacturing establishments * * *' in your County from all county taxes except those levied for school purposes for five (5) years if the cost of such addition is $50,000.00. You request our opinion of whether the term 'existing manufacturing establishments' requires that the cost of the addition be $50,000.00 to one manufacturing plant or does the same mean an aggregate expenditure for all manufacturing plants of a single taxpayer that is located in your County.

The term 'manufacturer', 'manufactory', 'manufacturing establishment' and other similar terms found in the statutes relating to the exemption for similar additions in the various counties has given this office considerable concern. The terms are difficult to define and, accordingly, it is necessary to look to the intent of the General Assembly.
'The words 'manufacture', 'manufacturing', manufacturing establishment', and correlated expressions are difficult if not impossible of exact definition, and may mean different thing in different statutes. * * *.' 84 C.J.S., Taxation, Section 274.

It is the opinion of this office that the terms, however, are used interchangeably and mean a manufacturing plant. In the absence of a clear legislative declaration it would not be assumed by this office that the General Assembly intended one county to permit a manufacturing corporation to consolidate expenditures at more than one manufacturing plant for the purpose of qualifying for the exemption, while denying like treatment to similar businesses in other counties.

The provisions of the Constitution, now repealed, that were in Article 8, Section 8 of the Constitution of 1895, used the terms interchangeably and in your County, Section 65-1527 and Section 65-1572 must be construed together, and clearly Section 65-1572 contemplates additions to a manufacturing 'plant.'

In addition to the above, the Supreme Court, in the case of Duke Power Company vs. Bell, 152 S. E. 865, was concerned with a joint resolution that exempted certain 'manufactories' in York County and other counties and held the term 'manufactory' to mean the physical plant site. It is interesting to note that the resolution there construed exempted 'any and all manufactories * * * with a capital of not less than $100,000.00 * * *.' That term would generally relate to ownership rather than expenditure which is further evidence of the fact that the General Assembly and perhaps the courts of this State have considered the terms as used in the exemption statutes to be synonymous and interchangeable.

***2** The opinion herein expressed recognizes that the specific question has not been before the courts of the State and we therefore have no case law on point. It is, however, the understanding of this office that the opinion herein stated

conforms to the administrative interpretation of the statutes and the application of the exemption in the various counties of the State where different terms have been used in the various exemption statutes.

You further inquire of whether Section 65-1523, subparagraph 48, exempts certain property of the South Carolina Oratory from county taxes. The section provides as follows:
'All property in York County, now or hereafter acquired, owned and used by the South Carolina Oratory, an eleemosynary corporation, shall be exempt from all county, school and municipal taxes so long as the property continues to be owned and used by the corporation for the operation of a church, church school or seminary, or for recreational activities directly incident thereto or for any allied religious activity, and is not operated for a profit.'

This section requires that the Oratory own the property and that the property be used for limited and enumerated purposes. Unless the property is so ?? the exemption would not extend.
'Under some provisions for exemption from taxation, the property as to which the exemption is sought must be used for designated purposes. The use must be actual, as distinguished from a use inferred from the declared objects in the company's charter, or as distinguished from property that is idle or unused. A mere intention, at some indefinite time, to devote the property to uses which would render it exempt, will not preclude its taxation in the meantime.' 84 C.J.S., Taxation, Section 232.

Whether the property is being used for the purposes prescribed in the statute is factual and if the Oratory does not use the property for one of the designated purposes, then the same is taxable.
Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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