

1974 WL 27869 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 22, 1974

*1 (1) An Act approved February 28, 1972, creating an exemption from taxation of the property of the S. C. Education Association applies to taxes for tax year.

(2) The Act is not retrospective in effect.

(3) The property of the Association is exempt from all but countywide taxes.

Honorable T. H. Rawl
Lexington County Attorney
Lexington County Court House
Lexington, South Carolina 29072

Dear Mr. Rawl:

Reference is made to your request for the opinion of this office concerning the provisions of Act 993, Acts of 1972. Sections 1 and 2 of the Act provide as follows:

Section 1.

‘() All property, both real and personal, of the South Carolina Education Association, an eleemosynary organization, shall be exempt from the payment of all local, municipal, county, school and special ad valorem taxes in Lexington County; provided, however, that should the property at any time be used for other than eleemosynary purposes the taxes for all county purposes shall be imposed.’

Section 2.

‘This act shall take effect upon approval of the Governor.’

The Act was approved February 28, 1972, and there is no evidence of legislative intent that the provisions were to be retrospective, therefore, the same are prospective in operation.

‘Statutes are to be construed as having only prospective operation unless the purpose to give them retrospective effect is expressly declared or necessarily implied from the language used.’ [Johnson v. Baldwin](#), 214 S. C. 545, 53 S. E. 2d 785.

Your next inquiry is whether the property is exempt for the 1972 tax year. We enclose a copy of an opinion of this office of June 24, 1974 on this subject and by reason of the authority set out therein, it is the opinion of this office that the property is for the 1972 tax year exempt from all but county taxes.

You next request the opinion of this office of whether the property of the Association is subject to taxation by the various taxing districts because a portion of the property was leased.

The language of the Act specifically exempts the property from all local, municipal, county, school and special ad valorem taxes provided that when the property is not used for eleemosynary purposes the same shall be subject to 'taxes for all county purposes.'

Under settled rules of construction, the words of the Act are to be given their ordinary and popular significance. [Investors Premium Corp. v. South Carolina Tax Commission](#), 193 S. E. 2d 642, 17 S.C.D., Statutes, Key 188. The property is therefore exempt from all taxes except those levied for county purposes. A county is a separate taxing district, [Anderson v. Page](#), 208 S. C. 146, 37 S. E. 2d 289, and a school district, like a county, is a separate taxing district, [Hay v. Leonard](#), 212 S. C. 81, 46 S. E. 2d 653. Special Service Districts and municipal corporations are likewise separate taxing entities.

In the case of [Railway Company v. Tribble](#), 25 S. C. 260, the court was concerned with whether a tax was a county tax and stated:

*2 'Each county is a body politic and corporate for certain purposes, among which are to purchase and hold for the use of the county lands and personalty within the limits thereof, to make all contracts, and to do all acts in relation to the property and concerns of the county necessary thereto. County commissioners are provided for, who are the officials of the county, and represent it. These officials regulate the county finances, and ascertain and report the amount of county taxes necessary to be raised for county purposes, upon which report the collection is authorized by act of the legislature.'

More recently in the case of [Bowater Carolina Corporation v. Smith](#), 257 S. C. 563, 186 S. E. 2d 761 (1972), it was held that:

'The Constitution of this State recognizes counties, townships, and school districts as separate and distinct political subdivisions, and each may be authorized to levy taxes for educational purposes. Article 10, Sections 5 and 6, and Article 11, Section 6, of the South Carolina Constitution.

Legislative enactments show conclusively that, both prior and subsequent to the enactment of the legislation in question, countywide taxes have been levied in York County for school purposes, separate from and in addition to the taxes levied in School District No. 3. The 1969 Notice of County Tax Levies in York County included a County Wide School Tax of 20 mills and a Supplementary School Tax of 4 mills.

In each instance, the statutes show that the Legislature has designated the particular taxes involved by reference to the political subdivision in which they are levied. If the tax was levied countywide, it was designated a county tax; and if levied only in a school district, it was designated a school district tax. The terms 'county taxes', 'township taxes', and 'school district taxes', therefore, clearly refer to the taxes levied by each of the separate political subdivisions.'

Relying on the authority herein stated, it is the opinion of this office that the property is exempt from all taxes except those levied by the county or the countywide taxes.

Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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