

1974 S.C. Op. Atty. Gen. 322 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3891, 1974 WL 21388

Office of the Attorney General

State of South Carolina

Opinion No. 3891

November 19, 1974

***1 Under the statutes a manufacturing plant is exempt from certain taxes imposed by Allendale County when acquired from another manufacturer that ceased to do business, provided there is no connection between the two.**

Auditor

Allendale County

Request is made for the opinion of this office concerning the exemption afforded manufacturers by Act 1470, Acts of 1972, that provides in Section 1 that:

“Section 1. Any new manufacturing enterprise established in Allendale County on or after January 1, 1967, when the amount invested in real estate, buildings, machinery and equipment is not less than fifty thousand dollars, shall be exempt from all county and municipal taxes except for school purposes for five years from the date of such establishment. Provided, should the manufacturing enterprise cease to operate and its properties be acquired by a new enterprise, which has no connection with the former operation prior to January 1, 1972, it shall be extended the same exemption for a period of eight years from the date of its establishment.”

You advise that Kenlon Mills, Inc., received an exemption for property as a manufacturer between 1965 and 1969, inclusive, and that there was no manufacturing conducted on the premises in 1970 and 1971. You further state that the real estate was purchased on March 9, 1972, by R.D.C., Inc., the grantor being Collins and Aikman Corporation and that R.D.C., Inc., was granted an exemption in 1972 and 1973. The plant is now operated as or by Sylvania Spinning Corporation, which received the exemption on the personal property for 1973.

The underscored language of the Act controls the exemption and before the same can be granted, three elements must be present; (1) there must have been a manufacturing enterprise that ceased to operate; (2) the property of that enterprise (plant) must have been acquired by a new enterprise; and (3) there must be no connection between the enterprise that ceased to operate and the new enterprise.

Under the limited facts available, we cannot advise as to R.D.C., Inc., and Sylvania Spinning Corporation, and you must investigate to ascertain whether there is any connection between these entities and Kenlon Mills, Inc., or Collins & Aikman Corporation; however, insofar as the last two are concerned there is a definite “connection” that would preclude the exemption to them by the underscored proviso. The connection results from the merger.

The definition of the noun “connection” as used in the Act is not stated, however, our Supreme Court, in the case of [State ex rel Bates v. Patterson](#), 95 S.C. 463, 79 S.E. 309, was concerned with the following statute: “Provided, that said chain gang shall not be worked in connectin with or near a road contractor or overseer” and quoted the definition from the Century Dictionary of the noun “connection” as follows:

“The state of being connected or joined; union by junction, by an intervening substance or medium, by dependence or relation, or by order in a series.” (For other and similar definitions, see Webster's New Collegiate Dictionary, Black's Law Dictionary, Words and Phrases, Volume 8A.)

*2 The settled rules of construction require a strict construction of a tax exemption statute and applying the rule to this statute there should be no “connection” between the enterprise that ceased to do business and the new enterprise claiming the exemption, except that as grantor and grantee.

Joe L. Allen, Jr.
Assistant Attorney General.

1974 S.C. Op. Atty. Gen. 322 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3891, 1974 WL 21388

End of Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.