



ALAN WILSON  
ATTORNEY GENERAL

April 6, 2020

J. William Taylor  
Town Administrator  
Town of Jefferson  
Post Office Box 306  
Jefferson, South Carolina 29718

Dear Mr. Taylor:

We received your letter addressed to Attorney General Alan Wilson requesting an opinion of this Office concerning the Sandhills Telephone Cooperative, Inc. ("Sandhills"). We understand from your letter Sandhills is headquartered inside the corporate limits of the Town of Jefferson (the "Town"). You state Sandhills operates a digital/analog telecommunications network and provides telephone service to businesses and residences in western Chesterfield County and northern Kershaw County. You ask our Office for clarification as to whether Sandhills' corporate and services vehicles are exempt from property tax.

#### Law/Analysis

As you noted in your letter, section 12-37-40 of the South Carolina Code (2014) provides:

All persons charged with the assessment or collection of taxes for municipal purposes may copy from the county auditor's books the assessment of valuation thereon found and may use it as the basis for the assessment of taxes for municipal purposes. But nothing contained in this section shall prevent municipal authorities from assessing and collecting taxes upon property not upon the auditor's books.

In accordance with this provision, your municipal clerk sought to obtain property assessments from the Chesterfield County Auditor's Office and was informed that "the Sandhills Telephone Cooperative was exempt from the payment of vehicle taxes on all corporate and service vehicles," despite having been on the tax rolls and paying vehicle taxes as recently as 2013. Thus, you question Sandhills' exemption.

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According to Section 12-37-210 of the South Carolina Code (2014):

All real and personal property in this State, personal property of residents of this State which may be kept or used temporarily out of the State, with the intention of bringing it into the State, or which has been sent out of the State for sale and not yet sold, and all moneys, credits and investments in bonds, stocks, joint-stock companies or otherwise of persons resident in this State shall be subject to taxation.

Section 12-37-220 of the South Carolina Code (2014 & Supp. 2019) provides an extensive list of property exempt from the imposition of property tax. You mentioned the exemption provided in section 12-37-220(A)(1), exempting property owned by counties, municipalities, and other political subdivisions. Because Sandhills is not a political subdivision, we do not believe this exemption applies. S.C. Code Ann. § 12-37-220(A)(1)(2014). However, subsection (B) of section 12-37-220 provides in pertinent part:

(B) In addition to the exemptions provided in subsection (A), the following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

...

(10) notwithstanding any other provisions of law, the property of telephone companies and rural telephone cooperatives operating in this State used in providing rural telephone service, which was exempt from property taxation as of December 31, 1973, shall be exempt from such property taxation; provided, however, that the amount of property subject to ad valorem taxation of any such company or cooperative in any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973. Any property in any tax district added after December 31, 1973, shall likewise be exempt from property taxation in the proportion that the exempt property of such company or cooperative as of December 31, 1973, in that tax district was to the total property of such company or cooperative as of December 31, 1973, in that tax district;

...

S.C. Code Ann. § 12-37-220(B)(2014).

This Office does not have the ability to investigate and determine facts. See S.C. Att’y Gen., 2014 WL 1398595 (S.C.A.G. Jan. 2, 2014) (“this Office, unlike a court, cannot investigate and determine factual questions.”). Therefore, we cannot make a determination as to Sandhills’

status as a rural telephone cooperative for purposes of section 12-37-220(B)(10). However, given nature of the services Sandhills provides and the area it serves, for purposes of this opinion, we will presume Sandhills qualifies as a rural telephone cooperative to determine whether it is eligible for an exemption from property tax under section 12-37-220(B)(10).

In 1990, the South Carolina Tax Commission issued a Technical Advice Memorandum addressing the exemption of property owned by a rural telephone cooperative from property tax. Tech. Adv. Mem. 90-3 (S.C. Tax. Com. February 27, 1990). Citing section 12-37-220(B)(10), the Tax Commission stated:

In summary, the statute provides an exemption for certain property of telephone companies and rural telephone cooperatives, when used in providing rural telephone service, if such property was exempt as of December 31, 1973. In addition, property of such taxpayers added after December 31, 1973 is exempt based on a specific ratio.

In order to further understand this exemption, with respect to property added after December 1973, we must review the exemption as of December 31, 1973.

The prior exemptions for the taxpayers were found in Code Section 12-37-220(40) and (41). Those sections provided the exemptions, as of December 31, 1973, for:

(40) Property of rural telephone cooperatives - All property of every kind owned by rural telephone cooperatives organized under the provisions of Chapter 45 of Title 33, but if any such telephone service is rendered to residents within the corporate limits of any city or town they shall be subject to taxation by such city or town; and

(41) Certain rural party telephone lines and instruments - all rural party telephone lines and instruments constructed since March 29, 1945, serving party-line customers and used in the transmission of messages, conversation or other means of communication by means of electricity over rural lines, but this exemption shall extend only to county and school taxes.

In summary, the prior exemption, which is the basis for the current exemption, provided an exemption for all property of rural telephone cooperatives, and, rural party lines and instruments of telephone companies.

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Id. The Tax Commission continued on to make the following findings with respect to rural telephone cooperatives:

All property (including motor vehicles) of rural telephone cooperatives, exempt from property taxation as of December 31, 1973, is exempt from property taxation, except city and town taxes. However, pursuant to Code Section 12-37-220(B)(10), “the amount of property subject to ad valorem taxation . . . on any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973”.

All property (including motor vehicles) of rural telephone cooperatives, added after December 31, 1973 and used in providing rural telephone service, is exempt from property taxation, except city and town taxes.

We agree with the Tax Commission’s findings as stated above. Thus, vehicles owned by rural telephone cooperatives could be exempt from property tax under section 12-37-220(B)(10), but this exemption would not include property taxes imposed by cities and towns. Pursuant to section 12-37-40 quoted above, although municipalities “may copy from the county auditor’s books the assessment of valuation thereon found and may use it as the basis for the assessment of taxes for municipal purposes,” “nothing contained in this section shall prevent municipal authorities from assessing and collecting taxes upon property not upon the auditor’s books.” S.C. Code Ann. § 12-37-40. Accordingly, if the Town determines property does not qualify for an exemption, it may assess and collect taxes on such property.

### Conclusion

We do not have enough information and are unable to make a determination as to Sandhills’ status as a rural telephone cooperative for purposes of a property tax exemption under section 12-37-220(B)(10). However, if the Town determines Sandhills is a rural telephone cooperative pursuant to this provision, section 12-37-220(B)(10) provides for an exemption from property tax. However, this provision relies on exemptions established prior to December 31, 1973, which do not provide for an exemption from city and town taxes. Accordingly, we do not believe vehicles owned by a rural telephone cooperative are exempt from property taxes imposed by a city or town. Furthermore, if the Town determines these vehicles are not exempt, pursuant to section 12-37-40, the Town can assess and collect taxes upon property not on the county auditor’s books.

Sincerely,



Cydney Milling  
Assistant Attorney General

J. William Taylor  
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REVIEWED AND APPROVED BY:

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Solicitor General