

1973 S.C. Op. Atty. Gen. 240 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3583, 1973 WL 21040

Office of the Attorney General

State of South Carolina

Opinion No. 3583

July 31, 1973

**\*1 A lease, the consideration for which is a percentage of gross sales or net profit, is subject to the documentary tax and the tax is calculated upon twelve percent of the fair market value of the leased property, provided, however, the first five thousand dollars of such value is not taxed.**

Clerk of Court of Horry County

Reference is made to your letter of July 30, 1973, wherein you request the opinion of this office of the method of determining the tax base to be used in calculating the documentary taxes to be applied to a lease when the consideration for the lease is a percentage of the gross sales or net profit.

Bill S 31, Ratification No. 632, provides for the tax and the second paragraph of Section 2 of the Bill is as follows:

‘All leases of realty situated in this State which fail to state the true consideration for the lease or in which the actual consideration cannot be determined shall be taxed upon an annual base consideration of twelve per cent of the fair value of the realty demised at the rate provided herein for all other leases.’

The base for calculating the tax due on the lease referred to in your letter is therefor twelve per cent of the fair market value of the realty covered under the lease. The tax is at the rate of four cents per one hundred dollars of the consideration, or fractional part thereof; however, there is no tax upon the first five thousand dollars of the consideration.

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Assistant Attorney General  
South Carolina Tax Commission

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