

1973 S.C. Op. Atty. Gen. 292 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3620, 1973 WL 21074

Office of the Attorney General

State of South Carolina

Opinion No. 3620

September 12, 1973

***1 The tax imposed to repay bonds and to raise the county's share of operation and maintenance expense for the City-County Complex Building in Florence County is a County tax and this is included within the exemption found in Section 65-1554.**

Florence County Auditor

Reference is made to your letter of September 7, 1973, wherein you request the opinion of this office of whether the exemption afforded by Section 65-1554, as amended, includes the millage levied and earmarked for the City-County Complex Building.

The exemption, Section 65-1554, was amended by Act 95, Acts of 1969, and provides in part that:

‘All manufacturing establishments of a capital of not less than twenty-five thousand dollars and averaging not less than fifteen employees for six months of each year, desiring to locate in Florence County, are exempted from the payment of county taxes, except for school or educational purposes, for five years from the date of the establishment thereof. * * *.’

The question therefore is whether the tax in question is a county tax.

The General Assembly, in Act No. 818, Acts of 1966, created the Building Commission of the city and county of Florence and made several findings, one of which is that:

‘Florence County would pay the entire cost of constructing the building and would become obligated to pay its pro rata share of the cost of operating the facility.’

The 1966 Act is codified under Title 59, Section 567 et seq., and the Commission's powers are provided in Section 65-567.2. Subsection 19 thereof provides that the Commission shall:

‘Unless moneys be otherwise provided for, to direct the auditor of Florence County to levy, and the treasurer of Florence County to collect, ad valorem tax upon all taxable property in Florence County, sufficient to provide for the county's share of operating and maintaining the building. If, pursuant to this power, the Commission shall direct a tax levy for the aforesaid purpose, it shall be mandatory upon the auditor of Florence County to levy, and the treasurer of Florence County to collect, sufficient ad valorem tax upon all taxable property to provide for the county's share of operating and maintaining the building.’

Whether the millage referred to in your letter is levied for the purpose of providing the county's share of funds necessary for the maintenance and operation of the City-County Complex Building is not clear and the same may therefore include the millage levied for the repayment of the principal and interest on bonds issued for the construction of the facility. Such, however, would not affect the opinion hereinafter expressed in that Section 15 of the 1966 Act pledges the full faith, credit and taxing power of Florence County for the repayment of the bonds and the auditor is required to levy and the treasurer to collect a tax in the same manner as other county taxes sufficient for such purposes.

The General Assembly has thus evidenced an intent that the tax be levied to repay the bonds and to provide the county's share of the operating and maintenance expenses for the building.

*2 It should be noted under the above-stated provision that it is the county that levies the taxes and the same are levied for the purpose of satisfying obligations of the county.

It is therefore the opinion of this office that the millage levied to satisfy the principal and interest on the bonds and the county's share of the operating and maintenance expenses for the Building Complex is a county tax and, therefore, within the exempting provisions of Section 65-1554.

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