

1973 S.C. Op. Atty. Gen. 350 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3662, 1973 WL 21113

Office of the Attorney General

State of South Carolina

Opinion No. 3662

November 14, 1973

***1 A bond for title does not grant, assign, transfer, convey or vest title to the property, nor has the land been sold; therefore, the tax provided for in Section 65–689 is not applicable.**

Assistant Treasurer

Newberry County

Reference is made to your letter of November 9, 1973, to Mr. McLeod concerning the question of whether a bond for title is subject to taxation under the provisions of Section 65–689 or Section 65–688 of the Code.

Section 65–689 imposes the tax on:

‘* * * a deed, instrument or writing whereby any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed to or vested in, the purchaser. * * *.’

A bond for title does not convey the land.

‘It shall be soundly held that a bond for title is but an agreement to make title in the future upon the performance of certain conditions, such being an executory or incomplete sale. * * *.’ *Wahl v. Hutto*, 155 S. E. 2d 1, 249 S. C. 500.

The bond for title does not therefore grant, assign, transfer, convey or vest title to the property, nor has the land been sold; therefore, the tax provided for in Section 65–689 is not applicable.

The tax imposed by Section 65–688 exempts ‘executory contracts for the payment of money which are executed or carried out in an instrument of writing to which documentary stamps are affixed.’

From the information available we are not able to ascertain whether this executory contract is subject to taxation and this office is therefore forwarding your letter to Mr. Jack W. Lawson, Director of the License Tax Division of the South Carolina Tax Commission, with the request that he have a representative contact you and advise whether this instrument is subject to the tax imposed by Section 65–688.

Joe L. Allen, Jr.

Assistant Attorney General

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