CHAPTER 37

Assessment of Property Taxes

ARTICLE 1

General Provisions

**SECTION 12‑37‑10.** Definitions.

As used in this chapter the following words and phrases shall have the following meanings:

(1) “Real property” shall mean not only land, city, town and village lots but also all structures and other things therein contained or annexed or attached thereto which pass to the vendee by the conveyance of the land or lot;

(2) “Personal property” shall mean all things, other than real estate, which have any pecuniary value, and moneys, credits, investments in bonds, stocks, joint‑stock companies or otherwise;

(3) “Moneys” or “money” shall mean gold, silver and other coin, bank bills and other bills or notes authorized to be circulated as money, whether in possession or on deposit subject to the draft of the depositor or person having the beneficial interest therein on demand;

(4) “Credits” shall mean the remainder due, or to become due, to a person, after deducting from the amount of all legal debts, claims and demands in his favor the amount of all legal debts and demands against him, whether such demands be payable in money, labor or other valuable things, but, in ascertaining such remainder, no deduction shall be made for any (a) obligation to any mutual insurance company given for insurance, (b) subscription to the capital stock of any joint‑stock company, (c) taxes assessed against the person, (d) subscription to any religious, scientific, literary or charitable purpose, (e) acknowledgment of a liability not founded on a legal and valuable consideration, (f) more of any joint liability with others than the person honestly believes he will be compelled to pay, (g) contingent liability or (h) acknowledgment of a debt or liability made for the purpose of diminishing the amount of credit to be returned for taxation.

(5) “Investment in bonds” shall be held to mean all investments of money or means in bonds of whatever kind, whether issued by the government of the United States, this or any other state or territory of the United States, any foreign government, any county, city, town or other municipality or any corporation or company of this or any other state or country;

(6) “Investment in stocks” shall mean all investments of money or means in evidences of indebtedness, other than bonds or bills designed to circulate as money, issued by any government or municipality, shares of the capital of any corporation, company or association and every interest in any such shares or portion thereof and all interests or shares in ships, boats or other vessels used or designed to be used exclusively or partially in navigating the waters within or bordering on this State, whether any such ship, boat or vessel be within the jurisdiction of this State or not and whether such vessel be registered or licensed at any collector’s office in this State or not; and

(7) “Oath” shall mean and include an affirmation duly made.

HISTORY: 1962 Code Section 65‑1501; 1952 Code Section 65‑1501; 1942 Code Section 2577; 1932 Code Section 2577; Civ. C. ‘22 Section 341; Civ. C. ‘12 Section 293; Civ. C. ‘02 Section 265; G. S. 167; R. S. 221; 1881 (17) 983.

CROSS REFERENCES

Constitutional rule that all property subject to taxation shall be taxed in proportion to its value, see SC Const, Art X, Section 1.

Constitutional provision that there be no tax without consent, see SC Const, Art X, Section 5.

Department of Labor incorporated into Department of Labor, Licensing, and Regulation, see Section 1‑30‑65.

Regulations relating to property taxes, see S.C. Code of Regulations R. 117‑1700 et seq.

School taxes, generally, see Section 59‑73‑10 et seq.

RESEARCH REFERENCES

Forms

South Carolina Legal and Business Forms Section 6:1 , Legal Principles.

LAW REVIEW AND JOURNAL COMMENTARIES

A Constitutional History of the Property Tax in South Carolina (For law prior to 1977 Amendment). 26 S.C. L. Rev. 397.

United States Supreme Court Annotations

Tax legislation as violating Federal Constitution’s First Amendment ‑ Supreme Court cases. 103 L Ed 2d 951.

Attorney General’s Opinions

A residence owned by a corporation and occupied by a shareholder cannot be classified for ad valorem taxation as residential property; a residence owned by a corporation and occupied by a shareholder cannot be classified for ad valorem taxation as agricultural real property. 1982 Op Atty Gen, No 82‑65, p 65 (October 25, 1982) 1982 WL 155034.

A boat that is the residence of a person is to be taxed as personal property unless an application for residential classification is made. 1980 Op Atty Gen, No 80‑97, p 150 (September 30, 1980) 1980 WL 81979.

Bulk or portable barns, in the absence of an intention to become affixed to the land and an actual annexation they are considered to be personal property and farm machinery and would be exempt from ad valorem taxation. 1980 Op Atty Gen, No 80‑63, p 108 (June 4, 1980) 1980 WL 81946.

An enclosure used to cure tobacco is a fixture if the surrounding facts and circumstances indicate an intention on the part of the owner to make it a permanent part of the realty. 1975‑76 Op Atty Gen, No 4409, p 256 (July 30, 1976) 1976 WL 23029.

A bank vault door, a night depository, and heating and air‑conditioning systems contained within a building occupied by a bank, either as the owner thereof or as a tenant under lease with the right to remove the same, are subject to taxation as real property. 1966‑67 Op Atty Gen, No 2238, p 40 (March 8, 1967) 1967 WL 8554.

NOTES OF DECISIONS

Fixtures 2

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Real property 1

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1. Real property

A condominium was “real property” as defined by Section 12‑37‑10(1), rather than “personal property” as defined by Section 12‑37‑10(2), for purposes of a mortgage creditor’s right of redemption after a delinquent tax sale as established by Section 12‑51‑90, since the Horizontal Property Act (Section 27‑31‑10 et seq.) defines condominium ownership as “the individual ownership of a particular apartment,” and provides that “taxes...shall be assessed against and collected on each individual apartment,” each of which shall be carried on the tax books as a separate and distinct entity. Dibble v. Schade (S.C.App. 1992) 308 S.C. 88, 417 S.E.2d 104, rehearing denied.

This section [Code 1962 Section 65‑1501] makes pipelines of a water company, used for the purpose of carrying and distributing water within a city, real estate for the purpose of taxation. Paris Mountain Water Co. v. Woodside (S.C. 1925) 133 S.C. 383, 131 S.E. 37.

2. Fixtures

This section [Code 1962 Section 65‑1501] and Code 1962 Sections 65‑1509 and 65‑1672 should be read together, effect given to each, and harmonized if possible. The three sections seem to be framed in recognition of the common law as to fixtures, rather than in derogation thereof. Paris Mountain Water Co. v. Woodside (S.C. 1925) 133 S.C. 383, 131 S.E. 37.

3. Valuation

A factor for tenant improvements was properly added to the actual rent received in appraisal of shopping mall under the capitalization of income method. Haywood Mall Associates v. South Carolina Tax Com’n (S.C.App. 1987) 291 S.C. 411, 353 S.E.2d 890.

4. Intangible property

This section [Code 1962 Section 65‑1501] is a recodification of provisions in the Code prior to the 1932 amendment to Art 10, Section 1, of the Constitution. It is not legislation “especially provided by the General Assembly by the authority and within the limitation” of that section. Therefore, pursuant to that amendment, absent express action by the General Assembly, intangible personal property is not taxable. Francis Marion Life Ins. Co. v. City of Columbia (S.C. 1960) 237 S.C. 162, 115 S.E.2d 796.

**SECTION 12‑37‑30.** All taxes shall be levied on uniform assessment.

Taxes for township, school, municipal and all other purposes provided for or allowed by law shall be levied on the same assessment, which shall be that made for county taxes.

HISTORY: 1962 Code Section 65‑1503; 1952 Code Section 65‑1503; 1942 Code Section 2750; 1932 Code Section 2772; Civ. C. ‘22 Section 490; Civ. C. ‘12 Section 435; Civ. C. ‘02 Section 387; 1896 (22) 59; 2015 Act No. 87 (S.379), Section 3, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 3, substituted “county taxes” for “State taxes”.

CROSS REFERENCES

Constitutional rule that all taxes are to be laid upon actual assessed value, see SC Const, Art III, Section 29.

Municipal taxation, generally, see Section 5‑21‑110 et seq.

Library References

Taxation 2120.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 8, 25, 28 to 29, 198.

RESEARCH REFERENCES

ALR Library

124 ALR 1267 , Federal Government or Agencies of Federal Government as Subject to Payment of Tax or Fee Imposed Upon, or For, Recording or Filing Instrument.

LAW REVIEW AND JOURNAL COMMENTARIES

Quirk and Watkins, A Constitutional History of the Property Tax in South Carolina (For law prior to 1977 Amendment). 26 S.C. L. Rev. 397.

Attorney General’s Opinions

Discussion of the constitutional validity of the Bailey Bill and special assessments. S.C. Op.Atty.Gen. (January 4, 2017) 2017 WL 456088.

When a tract of land is subdivided into lots, and streets, sidewalks, water, sewage, etc., are put in place for the benefit of such lots, it is not proper to tax comparable lots at different values because some have been sold and others have not and the ownership thereof is not the same. 1976‑77 Op Atty Gen, No 77‑408, p 336 (December 28, 1977) 1977 WL 24743.

NOTES OF DECISIONS

In general 1

Assessment 2

Tax levy 3

1. In general

This section [Code 1962 Section 65‑1503] implements Art 10 Section 13, of the Constitution. City of Columbia v Glens Falls Ins. Co., 245 SC 119, 139 SE2d 529 (1964). Meredith v Elliott, 247 SC 335, 147 SE2d 244 (1966).

2. Assessment

County real property tax assessments violate equal protection clause of Fourteenth Amendment where county’s adjustments to assessments for properties that have not been recently sold are too small to seasonably dissipate disparities, and where properties that have not been recently sold have thus been intentionally systematically undervalued. Allegheny Pittsburgh Coal Co. v. County Com’n of Webster County, W. Va., 1989, 109 S.Ct. 633, 488 U.S. 336, 102 L.Ed.2d 688.

The word “assessment” used in the constitution and this section [Code 1962 Section 65‑1503] means “the value placed upon property for the purpose of taxation by officials appointed for that purpose.” Legally fixed millage in said taxing unit or district. Powell v. Chapman (S.C. 1973) 260 S.C. 516, 197 S.E.2d 287.

3. Tax levy

City council in fixing tax levy can proceed on basis of past experience and best available estimate of revenue, since statutes and Constitution do not require them to wait until total of all assessments is known with certainty. Simkins v. City of Spartanburg (S.C. 1977) 269 S.C. 243, 237 S.E.2d 69.

**SECTION 12‑37‑40.** Municipal authorities may copy assessments from county auditor’s books.

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.

HISTORY: 1962 Code Section 65‑1504; 1952 Code Section 65‑1504; 1942 Code Section 2750; 1932 Code Section 2772; Civ. C. ‘22 Section 490; Civ. C. ‘12 Section 435; Civ. C. ‘02 Section 387; 1896 (22) 59.

CROSS REFERENCES

Municipal taxation, generally, see Section 5‑21‑110 et seq.

Library References

Taxation 2609.

Westlaw Topic No. 371.

C.J.S. Taxation Section 675.

Attorney General’s Opinions

Land within municipality may be classified and taxed within agricultural classification when so assessed by County Tax Assessor. 1985 Op Atty Gen, No. 85‑99, p 280 (September 13, 1985) 1985 WL 166069.

NOTES OF DECISIONS

Bonding limits 1

1. Bonding limits

Since assessed value of taxable property within municipality and amount of its bonded indebtedness were matters of public record, city was not estopped, by recitals that bonds were valid obligations, to show that bonds exceeded maximum constitutional indebtedness. Bolton v. Wharton (S.C. 1931) 163 S.C. 242, 161 S.E. 454, 86 A.L.R. 1101. Municipal Corporations 943(2)

**SECTION 12‑37‑90.** Assessors to be full time; responsibilities and duties.

All counties shall have a full‑time assessor, whose responsibility is appraising and listing all real property, whether exempted or not, except real property required by law to be assessed by the department and property owned by the federal government, state government, county government, or any of its political subdivisions and which is exempt from property taxation. If the assessor discovers that any real property required by law to be assessed by the department has been omitted, he shall notify the department that the property has been omitted and the department is required to appraise and assess the omitted property.

The assessor is responsible for the operations of his office and shall:

(a) maintain a continuous record of recorded deed sales transactions, building permits, tax maps, and other records necessary for a continuing reassessment program;

(b) diligently search for and discover all real property not previously returned by the owners or their agents or not listed for taxation by the county auditor, and list such property for taxation in the name of the owner or person to whom it is taxable;

(c) when values change, reappraise and reassess real property so as to reflect its proper valuation in light of changed conditions, except for exempt property and real property required by law to be appraised and assessed by the department, and furnish a list of these assessments to the county auditor;

(d) determine assessments and reassessments of real property in a manner that the ratio of assessed value to fair market value is uniform throughout the county;

(e) appear as necessary before an appellate board to give testimony and present evidence as to the justification of an appraisal;

(f) have the right of appeal from a disapproval of or modification of an appraisal made by him;

(g) perform duties relating to the office of tax assessor required by the laws of this State;

(h) be the sole person responsible for the valuation of real property, except that required by law to be appraised and assessed by the department, and the values set by the assessor may be altered only by the assessor or by legally constituted appellate boards, the department, or the courts;

(i) have the right to enter and examine all new nonresidential buildings and structures and those portions of an existing nonresidential building or structure covered by a building permit for renovations or additions.

HISTORY: 1975 (59) 248; 1976 Act No. 618, Section 8; 1998 Act No. 299, Section 1.

CROSS REFERENCES

Payment of taxes on or before March 15 of year following year in which exemption is claimed not a condition to qualify for exemption, see Section 12‑37‑295.

Library References

Taxation 2433, 2439, 2444, 2472.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 497, 501 to 515, 518 to 524, 540, 551.

Attorney General’s Opinions

Discussion of uniformity of valuation for property taxes. S.C. Op.Atty.Gen. (Jan. 29, 2007) 2007 WL 419433.

Discussion of the authority of auditors to reassess the value of real property. S.C. Op.Atty.Gen. (Oct. 9, 2006) 2006 WL 3199993.

Discussion of whether county tax assessors are allowed to enter new, non‑residential premises for the purpose of assessing the value for property tax collection. S.C. Op.Atty.Gen. (Feb. 20, 1998) 1998 WL 115505.

A county tax board of appeals is the proper authority to rule upon whether a notice of appeal to the board was timely made. This is jurisdictional and may be raised by the assessor on appeal to the South Carolina Tax Commission if such be necessary. 1986 Op Atty Gen, No. 86‑42, p. 129 (March 25, 1986) 1986 WL 192002.

When property is under an “unknown” ownership, an entry to this effect in the tax title property description would satisfy the requirements of former Sections 30‑9‑50 and 30‑5‑35. 1986 Op Atty Gen, No. 86‑40, p 125 (March 24, 1986) 1986 WL 192000.

An assessor cannot require or force entry upon premises for the purpose of appraising the same or for finding untaxed property. 1986 Op Atty Gen, No. 86‑33, p 109 (March 10, 1986) 1986 WL 191995.

The governing body of Laurens County is now without authority to alter the ratio upon which the assessed values of property were ascertained for the 1977 tax year and reflected upon the tax duplicate. 1976‑77 Op Atty Gen, No 77‑319, p 249 (October 12, 1977) 1977 WL 24658.

The governing body of Laurens County is without authority to void or negate the valuations of the property as ascertained by the assessor for the 1977 tax year and may not therefore revoke the same and substitute the 1976 tax base. 1976‑77 Op Atty Gen, No 77‑319, p 249 (October 12, 1977) 1977 WL 24658.

The application for the agricultural classification of property pursuant to the provisions of Act 208, Acts of 1975, should be received by the tax assessor and the property classified and taxed as provided for in the Act; the homestead exemption as provided for in 1962 Code Section 65‑1522.1 [1976 Code Section 12‑37‑25] and the classification of property for residential purposes as provided for by Act 208, Acts of 1975, are independent of the other, however, that property which constitutes the homestead for the exemption must be classified as residential under the provisions of Act 208; the County Assessor of Marlboro County is without authority to extend an exemption of farm machinery from ad valorem taxation. 1975‑76 Op Atty Gen, No 4240, p 28 (February 2, 1976) 1976 WL 22860.

Act 208, Acts of 1975 [Article 3 of Chapter 43 of Title 12 and Sections 12‑37‑90, 12‑37‑100, 12‑37‑970, 12‑39‑340 and 12‑39‑350 of the 1976 Code], is effective for the 1976 tax year except where otherwise specifically provided. 1974‑75 Op Atty Gen, No 4127, p 196 (September 22, 1975) 1975 WL 22423.

Procedure where owner of property is not known. A county auditor is to list the ownership of real property as “unknown” in cases where the real owner of the property is not known, and the property is to be taxed accordingly. (Decided under former law.) 1968‑69 Op Atty Gen, No 2744, p 212 (October 10, 1969) 1969 WL 10741.

A county auditor is not required to accept the grantee in a quitclaim deed as the true owner of property for ad valorem tax purposes when the records fail to disclose or establish any interest in the said property that was conveyed by the grantor. (Decided under former law.) 1966‑67 Op Atty Gen, No 2379, p 228 (December 6, 1967) 1967 WL 8687.

NOTES OF DECISIONS

Market value 1

1. Market value

“Willing buyer‑willing seller” standard used to assess real property’s market value for tax purposes is hypothetical in nature and may be assumed when no actual market exists for particular parcel of land. Long Cove Home Owners’ Ass’n, Inc. v. Beaufort County Tax Equalization Bd. (S.C. 1997) 327 S.C. 135, 488 S.E.2d 857. Taxation 2515

County tax assessor lacked authority or power under statute to conduct reassessment of common areas of planned unit developments during nonassessment year, where assessor failed to reassess all property in county when he reassessed common areas, common areas were not omitted property and there was no change in condition of common areas. Long Cove Home Owners’ Ass’n, Inc. v. Beaufort County Tax Equalization Bd. (S.C. 1997) 327 S.C. 135, 488 S.E.2d 857. Taxation 2571

**SECTION 12‑37‑100.** Assessor shall endorse deeds.

When any deed is recorded it shall be presented to the county assessor’s office and have the endorsement of such office showing that the property has been identified and located on the records of the assessor’s office.

HISTORY: 1975 (59) 248.

Attorney General’s Opinions

The endorsement required under Section 12‑37‑100 is for identification only and the absence of an endorsement will not affect the validity of a deed. 1976‑77 Op Atty Gen, No 77‑241, p 179 (August 3, 1977) 1977 WL 24583.

**SECTION 12‑37‑110.** Auditors, assessors, and appraisers shall attend educational courses.

All auditors, assessors and appointed appraisers from an assessor’s office must attend educational courses required by the department.

HISTORY: 1975 (59) 248.

**SECTION 12‑37‑120.** Rounding of assessed value of property.

In the calculation of the assessed value of property subject to property tax, the result must be rounded to the nearest ten dollars and this rounded amount is deemed the assessed value of the property.

HISTORY: 1994 Act No. 516, Section 24.

**SECTION 12‑37‑135.** Countywide business registration; fee.

A county governing body may require a business registration throughout the entire county area and may impose an administrative fee not to exceed fifteen dollars. The fee is an administrative fee and must not be based upon business income. The business registration authorized by this section must be administered and enforced in the same manner as the business license tax described in Section 4‑9‑30(12), but must not be converted into a business license tax as described in that provision. The business registration administrative fee may be billed on any property tax bill and is deemed to be property tax for the purposes of collection if so billed. This registration, if adopted, is in lieu of any business license which is authorized pursuant to Section 4‑9‑30(12).

HISTORY: 2005 Act No. 145, Section 45, eff June 7, 2005.

Library References

Taxation 2061.

Westlaw Topic No. 371.

**SECTION 12‑37‑140.** Real property taxation and valuation; boundary clarification.

(A) On January 1, 2017, any real property which was not on the South Carolina real property tax rolls solely because prior to the boundary clarification, as contained in the amendments in Section 1‑1‑10, effective January 1, 2017, it was considered located in North Carolina, must be placed on the South Carolina property tax rolls. The real property must be valued based on the latest reassessment date for similar types of property in that location. The fifteen percent cap in Section 12‑37‑3140 is not applicable to this property in the year that the property is first placed on the tax rolls.

(B) For 2017 only, real property and personal property with a statutory lien date of December thirty‑first whose location is considered to have changed from North Carolina to South Carolina as a result of boundary clarification shall have a lien date of January 1, 2017, rather than December thirty‑first of the preceding year. For all subsequent property tax years the lien date shall return to December thirty‑first of the preceding year.

(C) The lien date for property taxes is the date on which the property tax becomes a fixed liability of the taxpayer.

(D) Any agricultural‑use property whose location is considered to have changed from South Carolina to North Carolina as a result of the boundary clarification is not subject to rollback of taxes under Section 12‑43‑220(d) because of the deemed location change.

(E) Taxpayers affected by the boundary clarification must apply for all property tax exemptions, special valuations, and special assessment ratios in accordance with and by the dates specified in South Carolina law.

(F) If as a result of the differing lien dates for North Carolina and South Carolina, property is subject to property taxes in both states, the taxpayer is liable for property taxes only in the state where the property is deemed located after the boundary clarification.

HISTORY: 2016 Act No. 270 (S.667), Section 12, eff January 1, 2017.

**SECTION 12‑37‑145.** Motor vehicle registration; boundary clarification.

(A) An individual whose state of residency changes from North Carolina to South Carolina solely as a result of the boundary clarification, as contained in the amendments in Section 1‑1‑10, effective January 1, 2017, must register his motor vehicle as a new resident of South Carolina in accordance with Section 56‑3‑210, and pay property taxes in accordance with Chapter 37, Article 21, Title 12. For purposes of this section, an individual’s residency must be determined on the date of the boundary clarification, which is January 1, 2017.

(B) A business with motor vehicles whose business location changes from North Carolina to South Carolina solely as a result of the boundary clarification is considered to have moved into South Carolina on January 1, 2017, and must register its motor vehicles in accordance with South Carolina law for moving business property into South Carolina based on the date of the boundary clarification, which is January 1, 2017, and personal property taxes for motor vehicles must be paid in accordance with Article 21, Chapter 37, Title 12.

(C) Refunds for motor vehicle personal property taxes for persons whose residency or business location is changed from South Carolina to North Carolina as a result of the boundary clarification, must be provided, if applicable, on a prorated basis in accordance with Section 12‑37‑2620.

HISTORY: 2016 Act No. 270 (S.667), Section 13, eff January 1, 2017.

**SECTION 12‑37‑150.** Tax rebate; boundary clarification.

If as a result of the boundary clarification, as contained in the amendments in Section 1‑1‑10, effective January 1, 2017, an individual is required to register his personal motor vehicle in South Carolina and, if the property taxes on that motor vehicle would have been less in North Carolina, the individual may receive a tax rebate from the applicable South Carolina county for the difference between the tax the individual was required to pay in South Carolina and the individual was required to pay in North Carolina on that same vehicle based on the latest North Carolina assessment for the motor vehicle. In order to receive this rebate the individual must provide the county with a copy of the last North Carolina county property tax assessment for the same motor vehicle. The individual is entitled to this rebate for two years, including any partial year.

HISTORY: 2016 Act No. 270 (S.667), Section 14, eff January 1, 2017.

**SECTION 12‑37‑155.** Lien date; boundary clarification.

For 2017 only, the lien date for nonbusiness personal property, other than motor vehicles, is January 1, 2017, for individuals whose state of residency changes from North Carolina to South Carolina solely as a result of the boundary clarification, as contained in the amendments to Section 1‑1‑10, effective January 1, 2017. For all subsequent years, the lien date shall return to December thirty‑first of the preceding tax year.

HISTORY: 2016 Act No. 270 (S.667), Section 15, eff January 1, 2017.

ARTICLE 3

Property Tax; Exemptions

**SECTION 12‑37‑210.** Property which is taxable.

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.

HISTORY: 1962 Code Section 65‑1521; 1952 Code Section 65‑1521; 1942 Code Section 2566; 1932 Code Section 2566; Civ. C. ‘22 Section 335; Civ. C. ‘12 Section 287; Civ. C. ‘02 Section 260; G. S. 164; R. S. 217; 1881 (17) 982.

CROSS REFERENCES

Authority for municipalities to provide by ordinance procedure for collection of delinquent real and personal property taxes, see Section 5‑7‑300.

Constitutional rule that all property subject to taxation shall be taxed in proportion to its value, see SC Const, Art X, Section 1.

Property of Retirement System for Judges and Solicitors being exempt from state and local taxes, see Section 9‑8‑10 et seq.

Library References

Taxation 2169, 2200.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 89 to 111, 113 to 129, 138, 145 to 149, 154 to 156, 158, 160, 438 to 439, 451.

RESEARCH REFERENCES

ALR Library

124 ALR 1267 , Federal Government or Agencies of Federal Government as Subject to Payment of Tax or Fee Imposed Upon, or For, Recording or Filing Instrument.

Attorney General’s Opinions

The personal property belonging to credit unions is not exempt from property taxation. 1986 Op Atty Gen, No 86‑72, p 230 (July 1, 1986) 1986 WL 192030.

Privately owned roadways, streets, etc., are subject to property taxation. 1979 Op Atty Gen, No 79‑66, p 82 (May 16, 1979) 1979 WL 29071.

In the absence of a statutory or treaty provision, the personal property of Iranian students that attend The Citadel is taxable, provided the property attains a taxable situs in this State. 1976‑77 Op Atty Gen, No 77‑388, p 319 (December 8, 1977) 1977 WL 24725.

The question of the taxable situs of personal property used in a business is a factual question, and if it is determined that the vehicles are permanently kept outside of York County, they cannot be taxed by York County, although they may have South Carolina license tags. 1976‑77 Op Atty Gen, No 77‑339, p 272 (October 31, 1977) 1977 WL 24678.

Trucks used by a business located in Greeleyville, although garaged elsewhere, have a situs within the Town of Greeleyville and are therefore taxable by the Town. 1976‑77 Op Atty Gen, No 77‑115, p 100 (April 25, 1977) 1977 WL 24457.

A leasehold interest created by a lease of real property from an agency of the State of South Carolina is not the subject of the ad valorem tax imposed on personal property because such an interest is intangible personal property and not includable within the provisions of the statute imposing the tax. 1966‑67 Op Atty Gen, No 2260, p 69 (April 14, 1967) 1967 WL 8575.

Trees and timber are considered part of the land for tax purposes and should not be valued separately; however, the value of the land should be ascertained as the same is enhanced by the trees or standing timber. 1966‑67 Op Atty Gen, No 2228, p 26 (February 21, 1967).

NOTES OF DECISIONS

Intangible property 2

Personal property 1

1. Personal property

Personal property is taxable where found. Jenkins v. City of Charleston (S.C. 1874) 5 S.C. 393, 22 Am.Rep. 14, reversed 96 U.S. 449, 24 L.Ed. 760.

2. Intangible property

This section [Code 1962 Section 65‑1521] does not render intangible property subject to taxation. This section is a recodification of provisions in the Code prior to the 1932 amendment to Art 10, Section 1, of the Constitution. It is not legislation “especially provided by the General Assembly by the authority and within the limitation” of that section. Therefore, pursuant to that amendment, absent express action by the General Assembly, intangible personal property is not taxable. Francis Marion Life Ins. Co. v. City of Columbia (S.C. 1960) 237 S.C. 162, 115 S.E.2d 796.

**SECTION 12‑37‑220.** General exemption from taxes.

(A) Pursuant to the provisions of Section 3, Article X of the State Constitution and subject to the provisions of Section 12‑4‑720, there is exempt from ad valorem taxation:

(1) all property of the State, counties, municipalities, school districts, Water and Sewer Authorities and other political subdivisions, if the property is used exclusively for public purposes, and it shall be the duty of the Department of Revenue and county assessor to determine whether such property is used exclusively for public purposes;

(2) all property of all schools, colleges, and other institutions of learning and all charitable institutions in the nature of hospitals and institutions caring for the infirmed, the handicapped, the aged, children and indigent persons, except where the profits of such institutions are applied to private use;

(3) all property of all public libraries, churches, parsonages, and burying grounds, but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property;

(4) all property of all charitable trusts and foundations used exclusively for charitable and public purposes, but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property;

(5) all household goods and furniture used in the home of the owner of such goods and furniture, such to include built‑in equipment such as ranges, dishwashers and disposals, but this exemption shall not apply to household goods used in hotels, rooming houses, apartments, or other places of business;

(6) all inventories of manufacturers, except manufactured articles which have been offered for sale at retail or which have been available for sale at retail. Fuel, including but not limited to uranium, special nuclear material, nuclear fuel, fossil fuel, coal, cellulose, wood or solid, liquid or gaseous hydrocarbons, held by a public utility, an affiliated interest of such public utility as defined in Section 58‑27‑2090 or a subsidiary of such public utility, or held by a corporation, entity or trust for the use and benefit of such public utility under orders or regulations of the Public Service Commission, shall be deemed to be inventories of manufacturers;

(7) all new manufacturing establishments located in any of the counties of this State after July 1, 1977, for five years from the time of establishment and all additions to the existing manufacturing establishments located in any of the counties of this State for five years from the time each such addition is made if the cost of such addition is fifty thousand dollars or more. Such additions shall include additional machinery and equipment installed in the plant. Provided, however, that the exemptions authorized in this item for manufacturing establishments, and additions thereto, shall not include exemptions from school taxes or municipal taxes but shall include only county taxes. Provided, further, that all manufacturing establishments and all additions to existing manufacturing establishments exempt under statutes in effect February 28, 1978, shall be allowed their exemptions provided for by statute until such exemptions expire;

(8) all facilities or equipment of industrial plants which are designed for the elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution, both internal and external, required by the state or federal government and used in the conduct of their business. At the request of the Department of Revenue, the Department of Health and Environmental Control shall investigate the property of any manufacturer or company, eligible for the exemption to determine the portion of the property that qualifies as pollution control property. Upon investigation of the property, the Department of Health and Environmental Control shall furnish the Department of Revenue with a detailed listing of the property that qualifies as pollution control property. For equipment that serves a dual purpose of production and pollution control, the value eligible for the ad valorem exemption is the difference in cost between this equipment and equipment of similar production capacity or capability without the ability to control pollution. For the purposes of this item, twenty percent of the cost of any piece of machinery and equipment placed in service in a greige mill qualifies as internal air and noise pollution control property and is exempt from property taxes. “Greige mill” means all textile processes from opening through fabric formation before dyeing and finishing;

(9) a homestead exemption for persons sixty‑five years of age and older, for persons permanently and totally disabled and for blind persons in an amount to be determined by the General Assembly of the fair market value of the homestead under conditions prescribed by the General Assembly by general law;

(10) intangible personal property.

(11) all property of public benefit corporations established by a county or municipality used exclusively for economic development purposes which serve a governmental purpose as defined in Section 115 of the U.S. Internal Revenue Code.

(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:

(1)(a) the house owned by an eligible owner in fee or jointly with a spouse;

(b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house;

(c) when a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemptions provided in subitems (a) and (b) and the beneficiary uses the dwelling as the beneficiary’s domicile, the dwelling is exempt from property taxation in the same amount and manner as dwellings are exempt pursuant to subitems (a) and (b);

(d) The Department of Revenue may require documentation it determines necessary to determine eligibility for the exemption allowed by this item.

(e) As used in this item:

(i) “eligible owner” means:

(A) a veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service‑connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability;

(B) a former law enforcement officer as further defined in Section 23‑23‑10, who is permanently and totally disabled as a result of a law enforcement service‑connected disability;

(C) a former firefighter, including a volunteer firefighter as further defined in Chapter 80, Title 40, who is permanently and totally disabled as a result of a firefighting service‑connected disability;

(ii) “permanently and totally disabled” means the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death;

(iii) “qualified surviving spouse” means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of a member of the armed forces of the United States who was killed in action, or the surviving spouse of a law enforcement officer or firefighter who died in the line of duty as a law enforcement officer or firefighter, as these terms are further defined in Section 23‑23‑10 and Chapter 80, Title 40 who at the time of death owned the house in fee or jointly with the now surviving spouse, if the surviving spouse remains unmarried, resides in the house, and has acquired ownership of the house in fee or for life;

(iv) “house” means a dwelling and the lot on which it is situated classified in the hands of the current owner for property tax purposes pursuant to Section 12‑43‑220(c);

(2)(a) the dwelling house in which he resides and a lot not to exceed one acre of land owned in fee or for life, or jointly with a spouse, by a paraplegic or hemiplegic person, is exempt from all property taxation provided the person furnishes satisfactory proof of his disability to the Department of Revenue. The exemption is allowed to the surviving spouse of the person so long as the spouse does not remarry, resides in the dwelling, and obtains the fee or a life estate in the dwelling. To qualify for the exemption, the dwelling house must be the domicile of the person who qualifies for the exemption. For purposes of this item, a hemiplegic person is a person who has paralysis of one lateral half of the body resulting from injury to the motor centers of the brain. For the purposes of this exemption, “paraplegic” or “hemiplegic” includes a person with Parkinson’s Disease, Multiple Sclerosis, or Amyotrophic Lateral Sclerosis, which has caused the same ambulatory difficulties as a person with paraparesis or hemiparesis. A doctor’s statement is required stating that the person’s disease has caused these same ambulatory difficulties.

(b) when a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemption provided in subitem (a) and the beneficiary uses the dwelling as his domicile, the dwelling is exempt from property taxation in the amount and manner as dwellings are exempt pursuant to subitem (a);

(3) two private passenger vehicles owned or leased by any disabled veteran designated by the veteran for which special license tags have been issued by the Department of Motor Vehicles under the provisions of Sections 56‑3‑1110 to 56‑3‑1130 or, in lieu of the license, if the veteran has a certificate signed by the county service officer or the Veterans Administration of the total and permanent disability which must be filed with the Department of Motor Vehicles. The exemption extends to the surviving spouse of the person on one private passenger vehicle owned or leased by the spouse for their lifetime or until the remarriage of the surviving spouse;

(4) all property of any kind of a nonprofit corporation created for the purpose of providing water supply or sewage disposal, or a combination of such services, organized pursuant to Chapter 36, Title 33;

(5) all property of the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, Fleet Reserve Association, and the Marine Corps League or any similar Veterans Organization chartered by the Congress of the United States, whether belonging to the department or to any of the posts in this State when used exclusively for the purpose of such organization and not used for any purpose other than club rooms, offices, meeting places, or other activities directly in keeping with the policy stated in the National Constitution of such organization, and such property is devoted entirely to its own uses and not held for “pecuniary profit”. For the purposes of this item “pecuniary profit” refers to income received from the sale of alcoholic beverages to persons other than bona fide members and their bona fide guests, or any income, any part of which inures to the benefit of any private individual. Where any structure or parcel of land is used partly for the purposes of such organization and partly for such pecuniary profits, the area for pecuniary profits shall be assessed separately and that portion shall be taxed;

(6) all property owned and used or occupied by any Young Women’s Christian Association, Young Men’s Christian Association or the Salvation Army in this State and used for the purpose of or in support of such organizations but the exemption herein provided shall not apply to such portions of any such property rented for purposes not related to the functions of the organization;

(7) all property owned and used or occupied by The Boy Scouts of America or The Girl Scouts of America and used exclusively for the purposes of these organizations. The exemption allowed by this item also extends to property not owned by these organizations but which is used exclusively by them for scouting purposes;

(8) properties of whatever nature or kind owned within the State and used or occupied by the South Carolina Association of Future Farmers of America so long as such properties are used exclusively to promote vocational education or agriculture, better business methods and more effective organization for farming or to encourage thrift or provide recreation for persons studying agriculture or home economics in the public schools;

(9) all wearing apparel of the person required to make a return and of the family of such person;

(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;

(11)(a) all property of nonprofit housing corporations devoted exclusively to providing below‑cost housing for the aged or for handicapped persons or for both aged and handicapped persons as authorized by Section 202 of the Housing Act of 1959 and regulated in part by 24 CFR Part 885;

(b) all property of nonprofit housing corporations devoted exclusively to providing below‑cost supportive housing for elderly persons or households as authorized by Section 202 of the Housing Act of 1959 as amended under Section 801 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 889;

(c) all property of nonprofit housing corporations devoted exclusively to providing below‑cost supportive housing for persons with disabilities as authorized by Section 811 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 890;

(d) all property of nonprofit housing corporations devoted exclusively to providing rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income as authorized by Section 515 of Title V of the Housing Act of 1949;

(e) all property of nonprofit housing corporations or solely‑owned instrumentalities of these corporations which is devoted to providing housing to low or very low income residents. A nonprofit housing corporation must satisfy the safe harbor provisions of Revenue Procedure 96‑32 issued by the Internal Revenue Service to qualify for this exemption;

(12) the property of any fraternal society, corporation or association, when the property is used primarily for the holding of its meetings and the conduct of its business and no profit or benefit therefrom shall inure to the benefit of any private stockholders or individuals;

(13) all agricultural products owned by the producer in this State;

(14) all farm machinery and equipment including self‑propelled farm machinery and equipment except for motor vehicles licensed for use on the highways. For the purpose of this section “self‑propelled farm machinery and equipment” means farm machinery or equipment which contains within itself the means for its own locomotion. For purposes of this item, farm equipment includes greenhouses;

(15) all livestock and live poultry;

(16)(a) The property of any religious, charitable, eleemosynary, educational, or literary society, corporation, trust, or other association, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, trust, or association and no profit or benefit there from inures to the benefit of any private stockholder or individual.

(b) The property of any religious, charitable, or eleemosynary society, corporation, trust, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not‑for‑profit sale to economically disadvantaged persons. The total properties for which the religious, charitable, or eleemosynary society, corporation, trust, or other association may claim this exemption in accordance with this paragraph may not exceed fifty acres per county within the State.

(c) The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), when the real property is held for a future use by the organization that would qualify for the exemption allowed pursuant to subitem (a) of this item or held for investment by the organization in sole pursuit of the organization’s exempt purposes and while held this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is subsequently sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is deemed terminated as of December thirty‑first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is deemed property tax for all purposes for payment and collection.

(d) To qualify for the exemption allowed by this item, a trust must be a trust that is established solely for the benefit of a religious organization.

(17) personal property in transit with “no situs” status as defined in Article 7, Chapter 37, Title 12 and subject to the record keeping requirements and penalties prescribed in that article shall not be subject to ad valorem taxation;

(18) real property leased on a nonprofit basis, to a state agency, county, municipality or other political subdivision so long as it is used for a general public purpose; provided, however, this exemption shall not apply to property used for office space or warehousing;

(19) all property owned by volunteer fire departments and rescue squads used exclusively for the purposes of these departments and squads. Property leased to a department or squad by an entity itself exempt from property tax is exempt in the same manner that property owned by these departments and squads is exempt;

(20) all property of nonprofit museums which is used exclusively for such purpose;

(21) all property leased to and operated by the South Carolina Public Service Authority for the generation or transmission of electric power shall be deemed for all tax purposes to be property of the Authority and exempt from ad valorem taxes;

(22) all community owned recreation facilities opened to the general public and operated on a nonprofit basis;

(23) notwithstanding any other provision of law, property heretofore exempt from ad valorem taxation by reason of the imposition upon such property or the owner of such property of a tax other than an ad valorem tax pursuant to the provisions of Section 12‑11‑30, Section 12‑13‑50 or Section 12‑21‑1080 shall continue to be entitled to such exemption;

(24) all property of nonprofit or eleemosynary community theater companies, symphony orchestras, county and community arts councils and commissions and other such companies, which is used exclusively for the promotion of the arts;

(25) all personal property loaned or leased on a nonprofit basis to a state agency, county, municipality, or other political subdivision, or to an organization exempt from federal income tax under Internal Revenue Code Section 501 through 514 as defined in item (11) of Section 12‑6‑40(A), for at least thirty days during the tax year, so long as such personal property is used solely for the purpose of public display and not for the use of such state agency, county, municipality, or other political subdivision, or exempt organization;

(26) two private passenger vehicles owned or leased by recipients of the Medal of Honor;

(27) two personal motor vehicles, owned or leased either solely or jointly by persons required to use wheelchairs, who qualify for special license tags under the provisions of Section 56‑3‑1910;

(28) all carnival equipment owned, leased, or used by a foreign corporation or other nonresident of this State, not physically present within State for an aggregate of more than six months of the tax year, and having paid an ad valorem or like tax in at least one other state;

(29) two private passenger vehicles or trucks, not exceeding three‑quarter ton, owned or leased by and licensed and registered in the name of any member or former member of the armed forces who was a prisoner of war (POW) in World War I, World War II, the Korean Conflict, or the Vietnam Conflict and who is a legal resident of this State. This exemption also extends to the surviving spouse of a qualified former POW for the lifetime or until the remarriage of the surviving spouse;

(30) all inventories;

(31) all real property of churches which extends beyond the buildings and premises actually occupied by the churches which own the real property if no profit or benefit from any operation on the churches’ real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the churches’ real property. This exemption does not change any exemption provided for churches or other entities in item (3) of subsection A of this section and item (c), Section 3 of Article X of the Constitution of this State but is an additional exemption for churches as provided in this item;

(32) all new corporate headquarters, corporate office facilities, distribution facilities, and all additions to existing corporate headquarters, corporate office facilities, or distribution facilities located in South Carolina, established or constructed, or placed in service, after June 27, 1988, are exempt from nonschool county ad valorem taxes for a period of five years from the time of establishment, construction, or being placed in service if the cost of the new construction or additions is fifty thousand dollars or more and seventy‑five or more new jobs which are full‑time or one hundred fifty or more substantially equivalent jobs are created in South Carolina. For the purpose of this exemption, the term:

(1) “New job” means any job created by an employer in South Carolina at the time a new facility or an expansion is initially staffed, but does not include a job created when an employee is shifted from an existing South Carolina location to work in a new or expanded facility.

(2)(a) “Full‑time” means a job requiring a minimum of thirty‑five hours of an employee’s time a week for the entire normal year of company operations or a job requiring a minimum of thirty‑five hours of an employee’s time for a week for a year in which the employee was initially hired for or transferred to the South Carolina corporate headquarters, corporate office facility, or distribution facility and worked at a rented facility pending construction of a corporate headquarters, corporate office facility, or distribution facility.

(b) “Substantially equivalent” means a job requiring a minimum of twenty hours of an employee’s time a week for the entire normal year of company’s operations or a job requiring a minimum of twenty hours of an employee’s time for a week for a year in which the employee was initially hired for or transferred to the South Carolina corporate headquarters, corporate office facility, or distribution facility and worked at a rented facility pending construction of a corporate headquarters, corporate office facility, or distribution facility.

(3) “Corporate headquarters” means the location where corporate staff members or employees are domiciled and employed, and where the majority of the company’s financial, personnel, legal, planning, or other business functions are handled either on a regional or national basis and must be the sole such corporate headquarters within the region or nation.

(4) “Staff employee” or “staff member” means executive, administrative, or professional worker. At least eighty percent of an executive employee’s business functions must involve the management of the enterprise and directing the work of at least two employees. An executive employee has the authority to hire and fire or has the authority to make recommendations related to hiring, firing, advancement, and promotion decisions, and an executive employee must customarily exercise discretionary powers. An administrative employee is an employee who is not involved in manual work and whose work is directly related to management policies or general business operations. An administrative employee must customarily exercise discretion and independent judgment. A professional employee is an employee whose primary duty is work requiring knowledge of an advanced type in a field of science or learning. This knowledge is characterized by a prolonged course of specialized study. The work must be original and creative in nature, and the work cannot be standardized over a specific period of time. The work must require consistent exercise of discretion.

(5) “Region” or “regional” means a geographic area comprised of either:

(a) at least five states, including South Carolina; or

(b) two or more states, including South Carolina, if the entire business operations of the corporation are performed within fewer than five states.

(6) “Corporate office facility” means the location where corporate managerial, professional, technical, and administrative personnel are domiciled and employed, and where corporate financial, personnel, legal, technical, support services, and other business functions are handled. Support services include, but are not limited to, claims processing, data entry, word processing, sales order processing, and telemarketing.

(7) “Distribution facility” has the meaning provided pursuant to Section 12‑6‑3360(M)(8).

Certification of the required investment and the number of new jobs which are full‑time or substantially equivalent and which are created must be provided by the South Carolina Department of Revenue to the appropriate local tax officials;

(33)(a) all personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55‑11‑500;

(b) all aircraft, including associated personal property, owned by a company owning aircraft meeting the requirements of Section 55‑11‑500(a)(3)(i) without regard to the other requirements of Section 55‑11‑500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item;

(34) the facilities of all new enterprises engaged in research and development activities located in any of the counties of this State, and all additions valued at fifty thousand dollars or more to existing facilities of enterprises engaged in research and development are exempt from ad valorem taxation in the same manner and to the same extent as the exemption allowed pursuant to subsection (A)(7) of Section 12‑37‑220. These additions include machinery and equipment installed in an existing manufacturing or research and development facility. For purposes of this section, facilities of enterprises engaged in research and development activities are facilities devoted directly and primarily to research and development, in the experimental or laboratory sense, of new products, new uses for existing products, or improvement of existing products. To be eligible for the exemption allowed by this section, the facility or its addition must be devoted primarily to research and development as defined in this section. The exemption does not include facilities used in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, or research in connection with literary, historical, or similar projects;

(35) property exempt under subsection (A)(5) of this section when located in a time‑share unit;

(36) after the easement is granted, land subject to a perpetual easement donated to this State under the South Carolina Scenic Rivers Act of Chapter 29, Title 49;

(37) one personal motor vehicle owned or leased by a legal guardian of a minor who is blind or required to use a wheelchair when the vehicle is used to transport the minor.

(38)(a) watercraft and motors which have an assessment of not more than fifty dollars;

(b) By ordinance, a governing body of a county may exempt from the property tax, forty‑two and 75/100 percent of the fair market value of a watercraft and its motor. This exemption for a watercraft motor applies whether the motor is located in, attached to, or detached from the watercraft. This exemption does not apply to a boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to Section 12‑37‑224;

(39) the governing body of a municipality may by ordinance exempt from municipal ad valorem taxes for not more than five years property located in the municipality receiving the exemptions from county ad valorem taxes allowed pursuant to items (32) and (34) of this subsection;

(40) watercraft trailers;

(41) economic development property during the exemption period as provided in Chapter 44, Title 12;

(42) property held in trust under the provisions of Chapter 18, Title 51 and all real property of charitable trusts and foundations held for historic preservation of forts and battlegrounds which extends beyond the buildings and premises actually occupied by the charitable trusts and foundations which own the real property if no profit or benefit from any operation on the charitable trusts’ and foundations’ real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the charitable trusts’ and foundations’ real property. This exemption does not change any exemption provided for charitable trusts and foundations in item (4) of subsection (A) of this section and item (d), Section 3, Article X of the Constitution of this State but is an additional exemption for charitable trusts and foundations for historic preservation, as provided in this item;

(43) the dwelling home and a lot not to exceed one acre of land owned in fee or for life or jointly with a spouse by a resident of this State who is a recipient of the Medal of Honor regardless of when it was awarded or the conflict involved, or who was a prisoner of war in World War I, World War II, the Korean Conflict, or the Vietnam Conflict. The exemption is allowed to the surviving spouse under the same terms and conditions governing the exemption for surviving spouses pursuant to item (1) of this subsection. A person applying for this exemption must provide the evidence of eligibility the department requires;

(44) subject to the approval by resolution of the county governing body, property and improvements subject to a nonresponsible party voluntary cleanup contract for which a certificate of completion has been issued by the Department of Health and Environmental Control pursuant to Article 7, Chapter 56, Title 44, the Brownfields Voluntary Cleanup Program, is exempt from ad valorem taxation in the same manner and to the same extent as the exemption allowed pursuant to subsection (A)(7) of this section. This exemption applies beginning with the taxable year in which the certificate of completion is issued;

(45) a private passenger motor vehicle leased by a member of the armed forces of the United States stationed in this State when that service member’s home of record is in another state and the leased vehicle is registered in South Carolina;

(46) a private passenger motor vehicle leased to a governmental entity that would be exempt pursuant to subsection (A)(1) of this section if the governmental entity owned the vehicle;

(47)(a) Effective for property tax years beginning after 2006 and to the extent not already exempt pursuant to Section 12‑37‑250, one hundred percent of the fair market value of owner‑occupied residential property eligible for and receiving the special assessment ratio allowed owner‑occupied residential property pursuant to Section 12‑43‑220(c) is exempt from all property taxes imposed for school operating purposes but not including millage imposed for the repayment of general obligation debt.

(b) Notwithstanding any other provision of law, property exempted from property tax in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15 of Article X of the Constitution of this State.

(c) The exemptions allowed by this item may not be deleted or reduced except by a legislative enactment receiving a recorded rollcall vote of at least a two‑thirds majority of the membership of each house of the General Assembly;

(48) a motor vehicle licensed and registered as an antique motor vehicle pursuant to Article 23, Chapter 3, Title 56;

(49) real property not subject to property tax, leased by a state agency, county, municipality, other political subdivision, or other state entity to an entity that would not be subject to property tax if the entity owned the property;

(50) all fire sprinkler system equipment and the value attached thereto that is installed on a commercial or residential structure when the installation is not required by law, regulation, or code until there is an assessable transfer of interest as determined by Section 12‑37‑3150;

(51) one hundred percent of the value of an improvement to real property consisting of a newly constructed detached single family home offered for sale by a residential builder or developer through the earlier of:

(a) the property tax year in which the home is sold or otherwise occupied; or

(b) the property tax year ending the sixth December thirty‑first after the home is completed and a certificate of occupancy, if required, is issued thereon.

In lieu of other exemption application requirements, the owner of property eligible for the exemption allowed by this item shall obtain the exemption by notifying the county assessor and county auditor by written affidavit no later than thirty days after the certificate of occupancy is issued and no later than January thirty‑first in subsequent exemption eligibility years that the property is of the type eligible for the exemption and unoccupied and if found in order, the exemption is allowed for the applicable property tax year. If the unsold residence is occupied at any time before eligibility for the exemption ends, the owner shall so notify the auditor and assessor and the exemption ends as provided in subitem (a) of this item.

(52)(a) 14.2857 percent of the property tax value of manufacturing property assessed for property tax purposes pursuant to Section 12‑43‑220(a)(1). For purposes of this item, if the exemption is applied to real property, then it must be applied to the property tax value as it may be adjusted downward to reflect the limit imposed pursuant to Section 6, Article X of the South Carolina Constitution, 1895;

(b) The revenue loss resulting from the exemption allowed by this item must be reimbursed and allocated to the political subdivisions of this State, including school districts, in the same manner as the Trust Fund for Tax Relief, not to exceed eighty‑five million dollars per year. In calculating estimated state individual and corporate income tax revenues for a fiscal year, the Board of Economic Advisors shall deduct amounts sufficient to account for the reimbursement required by this item.

(c) Notwithstanding the exemption allowed by this item, in any year in which reimbursements are projected by the Revenue and Fiscal Affairs Office to exceed the reimbursement cap in subitem (b), the exemption amount shall be proportionally reduced so as not to exceed the reimbursement cap.

(d) Notwithstanding any other provision of law, property exempted from property taxes in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15, Article X of the Constitution of this State.

(C) Upon approval by the governing body of the county, the five‑year partial exemption allowed pursuant to subsections (A)(7), (B)(32), and (B)(34) is extended to an unrelated purchaser who acquires the facilities in an arms‑length transaction and who preserves the existing facilities and existing number of jobs. The partial exemption applies for the purchaser for five years if the purchaser otherwise meets the exemption requirements.

(D) If a church acquires ownership of real property which will be exempt under this section when owned by the church, the transferor’s liability for property taxes on the property ceases on the church acquiring the property, and any exemptions provided in this section then apply, subject to the requirements of Section 12‑4‑720. The property taxes accruing up to the date of the acquisition by the church, if any, must be paid to the county where the property is located within thirty days of the acquisition date. If the millage has not yet been set for the year when the acquisition occurs, the county auditor shall apply the previous year’s millage in determining any taxes owed. If the millage has been determined, the auditor shall apply the current year’s millage in determining any taxes owed. All taxes, assessments, penalties, and interest on the property acquired by a church are a first lien on the property taxed, the lien attaching December thirty‑first of the year immediately preceding the calendar year during which the tax is levied.

(E) If an entity owns property a portion of which qualifies for an exemption under subsections (A)(4) or (B)(16)(a) of this section and a portion of which is leased to one or more separate entities and that property would be exempt under subsections (A)(4) or (B)(16) of this section if the entity leasing the property owned the property, then any portion of the property that is leased to such entity is exempt from property taxes.

HISTORY: 1962 Code Section 65‑1522; 1952 Code Section 65‑1522; 1942 Code Sections 2578, 2872, 2876, 2878; 1932 Code Sections 2578, 2585, 2593; Civ. C. ‘22 Section 342; Civ. C. ‘12 Section 294; Civ. C. ‘02 Section 266; G. S. 169; R. S. 222; 1881 (17) 985; 1908 (25) 1051; 1912 (27) 682; 1915 (29) 574; 1918 (30) 710; 1919 (31) 136; 1920 (31) 746; 1923 (33) 111, 140, 504; 1924 (33) 946, 1118; 1925 (34) 90, 282; 1926 (34) 1546, 1677; 1927 (35) 107, 759, 983, 1017; 1928 (35) 1950; 1929 (36) 55; 1930 (36) 1558, 2164, 2169; 1931 (37) 210, 224, 889; 1933 (38) 275; 1935 (39) 129; 1936 (39) 1650; 1937 (40) 459; 1938 (40) 1795; 1940 (41) 1645; 1946 (44) 1508; 1947 (45) 315, 475; 1948 (45) 1658; 1949 (46) 280; 1950 (46) 2030, 2221, 2272; 1951 (47) 546; 1952 (47) 2148; 1954 (48) 1566; 1957 (50) 30, 186, 191; 1961 (52) 712; 1964 (53) 2075, 2222; 1965 (54) 534; 1966 (54) 2150, 2286, 2622, 2639, 2758; 1967 (55) 36, 382; 1968 (55) 2250, 2593; 1969 (56) 721, 740; 1970 (56) 1913, 2012; 1971 (57) 396, 431, 709, 2057; 1974 (58) 2079, 2847; 1975 (59) 186, 573; 1978 Act No. 621, Section 2; 1980 Act No. 359; 1980 Act No. 426, Section 1; 1980 Act No. 472, Section 1; 1980 Act No. 478, Sections 1, 2; 1981 Act No. 39, Section 1; 1982 Act No. 292, Sections 1, 2; 1984 Act No. 291; 1984 Act No. 456; 1985 Act No. 42, Section 1; 1985 Act No. 101, Section 17; 1985 Act No. 152, Section 1; 1985 Act No. 161, Section 1; 1985 Act No. 201, Part II, Section 67; 1986 Act No. 498, Section 1; 1986 Act No. 540, Part II, Section 3D; 1987 Act No. 129, Section 2; 1988 Act No. 438, Section 1; 1988 Act No. 521, Section 1; 1988 Act No. 666, Section 1; 1989 Act No. 183, Section 3; 1989 Act No. 189, Part II, Section 36; 1989 Act No. 189, Part II, Section 48A; 1991 Act No. 90, Section 1; 1991 Act No. 110, Section 2; 1992 Act No. 361, Sections 17(A)‑20, Sections 17(A), 18‑20; 1992 Act No. 432, Section 1; 1992 Act No. 485, Sections 2, 3; 1993 Act No. 176, Section 2; 1993 Act No. 181, Section 200; 1994 Act No. 293, Section 1; 1994 Act No. 497, Part II, Section 77; 1994 Act No. 497, Part II, Section 100A; 1994 Act No. 516, Sections 29(A), 29(B); 1995 Act No. 69, Sections 1, 3; 1995 Act No. 76, Section 10; 1995 Act No. 125, Sections 3A‑3D; 1995 Act No. 125, Section 5A; 1996 Act No. 272, Section 1; 1996 Act No. 282, Section 1; 1996 Act No. 431, Section 17; 1996 Act No. 459, Section 11; 1996 Act No. 431, Section 18; 1996 Act No. 456, Section 14; 1996 Act No. 459, Section 11; 1996 Act No. 462, Section 21; 1997 Act No. 107, Section 2; 1997 Act No. 126, Section 1; 1997 Act No. 149, Section 2; 1999 Act No. 100, Part II, Section 59; 1999 Act No. 121, Section 2; 2000 Act No. 283, Section 5(H), eff for taxable years beginning after June 30, 2001; 2000 Act No. 387, Part II, Section 52C, eff July 1, 2000; 2000 Act No. 399, Section 3(Q)(1), eff August 17, 2000; 2000 Act No. 404, Section 6(E), eff October 3, 2000; 2001 Act No. 18, Section 1, eff for property tax years beginning after 2001; 2001 Act No. 89, Section 29, eff July 20, 2001; 2002 Act No. 280, Section 6, eff May 28, 2002; 2002 Act No. 334, Section 7I, eff June 24, 2002; 2003 Act No. 69, Section 1, eff June 18, 2003; 2004 Act No. 224, Section 1, eff May 11, 2004 and applies to property tax years beginning after 2004; 2005 Act No. 17, Section 1, eff February 15, 2005; 2005 Act No. 145, Section 31, eff June 7, 2005; 2005 Act No. 161, Sections 35, 36.A and 38, eff June 9, 2005; 2006 Act No. 276, Section 1, eff May 23, 2006; 2006 Act No. 333, Section 2, eff June 2, 2006; 2006 Act No. 360, Section 1, eff June 9, 2006, applicable for property tax years beginning after 2005; 2006 Act No. 386, Sections 9, 41, eff June 14, 2006; 2006 Act No. 388, Pt I, Section 3, eff June 10, 2006; 2006 Act No. 389, Section 2, eff June 14, 2006; 2007 Act No. 116, Sections 9, 64, eff June 28, 2007, applicable for tax years beginning after 2007; 2008 Act No. 352, Section 1, eff June 12, 2008; 2008 Act No. 357, Section 5.A, eff June 25, 2008; 2009 Act No. 45, Section 1, eff June 2, 2009; 2009 Act No. 76, Section 1, eff June 16, 2009; 2010 Act No. 175, Section 1, eff May 19, 2010; 2010 Act No. 264, Section 1, eff June 11, 2010; 2010 Act No. 279, Section 1, eff June 16, 2010; 2014 Act No. 259 (S.437), Section 4.A, eff June 9, 2014; 2015 Act No. 23 (S.153), Section 1, eff June 1, 2015; 2017 Act No. 40 (H.3516), Section 19.A, eff May 10, 2017.

Editor’s Note

2002 Act No. 280, Section 7, provides as follows:

“The incentives offered in this act apply only to projects receiving a certification of completion from the Department of Health and Environmental Control after the effective date of this act.”

2003 Act No. 69, Sections 2 and 3.JJ, provide as follows:

“Notwithstanding any other provision of law, the amendment to Section 12‑37‑220(B)(11) of the 1976 Code, made pursuant to Section 7I, Act 334 of 2002, is effective for property tax years beginning after 2001.”

2005 Act No. 17, Section 2, provides as follows:

“This act takes effect upon approval by the Governor and applies for property tax years beginning after 2001. The time limitations provided in Section 12‑54‑85(F) of the 1976 Code do not apply for purposes of computing refunds pursuant to Section 12‑37‑220(B)(7) of the 1976 Code as amended in this act.”

2005 Joint Resolution No. 181, Section 1, eff March 22, 2005, provides as follows:

“Notwithstanding the date provided in Section 2 of an act of 2005 bearing ratification number 2 [2005 Act No. 17], the property tax exemption for property not owned by but which is used exclusively by the Boy Scouts of America or the Girl Scouts of America applies for property tax years beginning after 2000.”

2006 Act No. 333, Section 3, provides as follows:

“This act takes effect upon approval by the Governor and applies with respect to motor vehicle tax years beginning after the last day of the second month following the month in which this act was approved by the Governor except that Section 2 [adding (B)(48)] applies to motor vehicle antique property tax years beginning after June 30, 2006.”

2008 Act No. 357, Section 5.B provides as follows:

“This section takes effect upon approval of this act by the Governor and applies for taxable years beginning after 2007.”

2009 Act No. 45 Section 3 provides as follows:

“This act takes effect upon approval by the Governor and applies for property tax years beginning after 2006.”

2009 Act No. 76, Section 3 provides as follows:

“This act takes effect upon approval by the Governor and Section 1 applies for single family homes completed and, if required, a certificate of occupancy issued thereon after 2006. No refunds are allowed for property tax years 2007 and 2008 as a result of the exemption allowed pursuant to this act.”

2010 Act No. 175, Section 2, provides:

“This act takes effect upon approval by the Governor and applies for property tax years beginning after 2009.”

2014 Act No. 259, Section 4.C, provides as follows:

“C. This SECTION takes effect upon approval by the Governor and applies to property tax years beginning after 2013.”

2017 Act No. 40, Sections 19.B, 19.C, provide as follows:

“B. Notwithstanding the exemption amount allowed pursuant to item (52) added pursuant to subsection A of this SECTION, the percentage exemption amount is phased‑in in six equal and cumulative percentage installments, applicable for property tax years beginning after 2017.

“C. This SECTION takes effect upon approval by the Governor and first applies to property tax years beginning after 2017.”

Effect of Amendment

2014 Act No. 259, Section 4.A, in subsection (B)(16), inserted “trust,” before “or other association” throughout; added paragraph (d), relating to qualification for the exemption; and made other nonsubstantive changes.

2015 Act No. 23, Section 1, in (B)(3), added the text following “must be filed with the Department of Motor Vehicles.”

2017 Act No. 40, Section 19.A, in (B), added (52), relating to phasing‑in an exemption of a percentage of manufacturing property.

CROSS REFERENCES

Application of the definitions of “corporate headquarters”, “new jobs”, and “full time” to a corporate income tax credit for establishing or enlarging a corporate headquarters, see Section 12‑6‑3410.

Constitutional provisions pertaining to property exempt from taxation, see SC Const, Art X, Section 3.

Definition of “retail sale” as used in this section, see Section 12‑36‑110.

Definition of “tangible personal property” as used in this section, see Section 12‑36‑60.

Determination by Department of Revenue if property qualifies for exemption from local property taxes under this section, see Section 12‑4‑710.

Exemption of tax exempt property from assessment, see Section 12‑43‑330.

Exemption of the proceeds of the sale of certain items by organizations exempt under this section from sales and use taxes, see Section 12‑36‑2120.

Fair market value of large commercial motor vehicles subject to road use fee, see Section 12‑37‑2880.

Fee in lieu of property tax to be calculated to allow all applicable property tax exemptions except exemption allowed under this section, see Section 12‑44‑50.

Owners of certain exempt properties enumerated in this section not required to apply for exemption, see Section 12‑4‑720.

Payment of fee in lieu of taxes in connection with industrial development projects, see Section 4‑29‑67.

Property purchased by installment contract for sale, applicable exemptions, see Section 12‑43‑221.

Tax exemptions of county business development corporations and their securities, see Section 33‑39‑60.

Tax exemptions of South Carolina business development corporations and their securities, see Section 33‑37‑70.

Federal Aspects

Sections 801 and 811 of the National Affordable Housing Act of 1990, see 12 U.S.C.A. Section 1701q, 42 U.S.C.A. Sections 12704 et seq.

Section 202 of the Housing Act of 1959, see 12 U.S.C.A. Section 1701q.

Tax exempt organizations, see 26 U.S.C.A. Sections 501 et seq.

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Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 401, Liabilities Arising from Contract or Property Ownership.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Tax Law. 38 S.C. L. Rev. 209 (Autumn 1986).

“The Development of Tax Exemption in South Carolina,” 4 SCLQ 396 (1952).

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Tax legislation as violating Federal Constitution’s First Amendment—Supreme Court cases. 103 L Ed 2d 951.

Attorney General’s Opinions

Discussion of whether crop dusting can be considered farm machinery. S.C. Op.Atty.Gen. (July 18, 2016) 2016 WL 4222147.

Discussion of Dorchester County’s taxation of owner‑occupied residences for the purpose of financing school resource officers providing police protection at schools. S.C. Op.Atty.Gen. (November 24, 2015) 2015 WL 8773705.

In regards to a county or municipality with jurisdiction over a special purpose district, the special purpose district would be generally exempt from taxes but not from fees and other such ordinances and regulations regarding building permits unless specifically excluded by statute or other agreement. S.C. Op.Atty.Gen. (June 18, 2014) 2014 WL 3352176.

The Legislature did not intended for a surviving spouse of disabled veteran to be eligible to receive a property tax exemption on his or her vehicle, regardless of whether or not he or she holds a special license plate issued pursuant to Section 56‑3‑1110. S.C. Op.Atty.Gen. (Jan. 20, 2010) 2010 WL 440995.

Six‑percent assessment ratio owners of owner‑occupied residential property would not be entitled to the property tax exemption for property taxes assessed for school operating purposes under the Property Tax Reform Act. S.C. Op.Atty.Gen. (April 2, 2008) 2008 WL 1960278.

Discussion of whether various chambers of commerce throughout the state are exempt from ad valorem taxation. S.C. Op.Atty.Gen. (Jan. 30, 1998) 1998 WL 61841.

The exemption provisions of S.C. Code Ann. Section 12‑37‑220 (Supp. 1993) do not apply to a separate fee imposed for the disposal of solid waste. 1994 Op Atty Gen, No 94‑48, p. 111 (August 15, 1994) 1994 WL 507075.

Lease by water district of small portion of lot to cable company with right of cable company to install antenna upon water tank of district would not subject district’s property to ad valorem taxation. 1991 Op Atty Gen, No 91‑51, p 132 (August 27, 1991).

Motor vehicle of nonresident serviceperson located in South Carolina is not subject to taxation when vehicle is licensed and registered in South Carolina or home state of serviceperson, with exception for personal property used in trade or business. 1990 Op Atty Gen, No 90‑66 (November 20, 1990) 1990 WL 482453.

Five year property tax exemption for new or expanded manufacturing establishments applies to manufacturing establishments in jointly developed industrial parks unless such developments are specifically excluded from exemption by other statutory authority. 1990 Op Atty Gen, No 90‑29 (March 14, 1990) WL 482417.

Lawful contract by county officials will normally be sustained by court regardless of fact such officials may have made bad bargain. 1990 Op Atty Gen, No 90‑29 (March 14, 1990) WL 482417.

Municipality may agree to sell utility services to industrial park in adjacent county provided such agreement is in accordance with applicable provisions of Sections 5‑31‑1510, et seq., 5‑31‑17, et seq. and 5‑31‑1910, et seq. Park serviced by agreement would not qualify as jointly developed industrial park under Article VIII, Section 13(D) of State Constitution. 1990 Op Atty Gen, No 90‑29 (March 14, 1990) WL 482417.

Neither Article VIII, Section 13(D) of State Constitution nor Section 4‑1‑170 requires that school districts receive fees from jointly developed industrial parks at same percentage as general taxes are to school taxes. Such, however, may be required by other statutory provisions. 1990 Op Atty Gen, No 90‑29 (March 14, 1990) WL 482417.

Section 12‑37‑220 B (14)’s property tax exemption for farm machinery is restricted to machinery actually used for agricultural purposes. Assessment ratio of machinery not meeting this requirement is determined by either Section 12‑43‑220 (a), (f) or (g) (2). Airplane used by farmer solely to spray his crops, or to spray other farmers’ crops for a fee, comes within Section 12‑37‑220 B (14)’s property tax exemption for farm machinery. Machinery released to farmer for agricultural purposes comes within Section 12‑37‑220 B (14)’s property tax exemption for farm machinery. 1990 Op Atty Gen, No 90‑23 (February 26, 1990) 1990 WL 482411.

A labor union as the term is generally defined is not a charitable, eleemosynary or educational corporation or association and hence fails to satisfy the conditions for the exemption provided by Section 12‑37‑220B(16)(a). 1989 Op Atty Gen, No 89‑24, p 69 (February 28, 1989) 1989 WL 406114.

The application for the exemption of a motor vehicle licensed after February and before January of any year is to be made between January and February of the year following except for those vehicles exempt under Section 12‑37‑220B (26) and (27) and church vehicles for which application are to be filed within sixty days before or within thirty days after the date on which such motor vehicles are registered or the registration renewal date. 1988 Op Atty Gen, No 88‑91, p 253 (December 21, 1988) 1988 WL 383574.

The exemption provided by Section 12‑37‑220(30) applies to inventory held for sale in the normal course of business by the class of businesses that had been required to return similar inventory to the South Carolina Tax Commission for assessment and taxation. 1988 Op Atty Gen, No 88‑7, p 36 (January 20, 1988) 1988 WL 410363.

No tax return is required for the assessment and taxation of merchant’s inventory for the 1988 and subsequent tax years. The merchant, however, must file an annual application for exemption and furnish the information required therefor. If the exemption is not filed, the inventory is taxable. 1987 Op Atty Gen, No 87‑8, p 42 (January 26, 1987) 1987 WL 245417.

The personal property belonging to credit unions is not exempt from property taxation. 1986 Op Atty Gen, No 86‑72, p 230 (July 1, 1986) 1986 WL 192030.

The exemption afforded to new manufacturing establishments would not include an existing manufacturing plant acquired by new owners. 1986 Op Atty Gen, No 86‑35, p 112 (March 17, 1986) 1986 WL 191997.

New manufacturing establishment or additions to existing manufacturing establishments are not deprived of exemption provided by Article X, Section 3(g), and Section 12‑37‑220A(6) because of their location within tax increment financing area. 1985 Op Atty Gen, No. 85‑144, p 407 (December 16, 1985) 1985 WL 166108.

Exemption provided by Section 12‑37‑220B(27) is limited to vehicles of persons required to use wheelchairs and for which special tags are issued pursuant to Section 56‑3‑1910; it does not include vehicles of other handicapped persons. 1985 Op Atty Gen, No 85‑135, p 373 (November 25, 1985) 1985 WL 166102.

Real property owned or leased to manufacturer that by legislative definition is not used by manufacturer in conduct of his business is not exempt from taxation under Section 12‑37‑220A(7) or Article X, Section 3(g) of South Carolina Constitution. 1985 Op Atty Gen, No 85‑134, p 371 (November 25, 1985) 1985 WL 193855.

Agricultural lands acquired by church and used as cemetery are not subject to additional (rollback) taxes. 1985 Op Atty Gen, No 85‑69, p 192 (July 24, 1985) 1985 WL 166039.

Act of 1985, having ratification number R.67, which exempts motor vehicle of prisoner of war, is effective for tax years beginning on or after April 29, 1985; it is not retroactive and does not provide for refund of taxes paid for tax years prior thereto. 1985 Op Atty Gen, No 85‑58, p 166 (June 7, 1985) 1985 WL 166028.

Code Section 12‑37‑235 applies to real property exempt from ad valorem taxation by Section 12‑37‑220, except property of the State and its political subdivisions that are exempt from ad valorem taxation and real property of public libraries. 1982 Op Atty Gen, No 82‑68, p 68 (November 9, 1982) 1982 WL 155037.

Property exempt from ad valorem taxes is not required to be assessed. 1982 Op Atty Gen, No 82‑51, p 57 (July 22, 1982) 1982 WL 155020.

Household goods and furniture are exempt from ad valorem taxes when located in second homes such as beach houses, beach condominiums, lake houses and lake condominiums; household goods and furniture are exempt from ad valorem taxes when located in second homes even when such homes are occasionally leased to third parties. 1982 Op Atty Gen, No 82‑29, p 33 (April 22, 1982) 1982 WL 154999.

The personal vehicle of a prisoner of war is not exempt from ad valorem property taxes. However, such prisoner of war may be entitled to free vehicular registration. 1982 Op Atty Gen, No 82‑27, p 31 (April 21, 1982) 1982 WL 154997.

The General Assembly may not exempt property of one class from taxation in one county and subject the property of the same class to taxation in another county. 1982 Op Atty Gen, No 82‑2, p 7 (January 14, 1982) 1982 WL 154972.

The property of a regional housing authority, when used as legislatively prescribed, is exempt from property taxation. 1981 Op Atty Gen, No 81‑68, p 93 (July 17, 1981) 1981 WL 96594.

The spouse of a person who dies while in military service without a separation or discharge therefrom is not entitled to the exemption provided by Section 12‑37‑220(B)(1) because such person was not a veteran. 1980 Op Atty Gen, No 80‑80, p 129 (July 18, 1980) 1980 WL 81962.

Eggs owned and produced by a hatchery are exempt from ad valorem taxation, however, eggs owned by a hatchery and acquired from other producers are taxable. 1980 Op Atty Gen, No 80‑49, p 99 (May 8, 1980) 1980 WL 81932.

The property of a charitable trust or foundation is exempt from ad valorem taxation when its present use is exclusively for a charitable or public purpose. Property held for prospective use would not be exempt. 1980 Op Atty Gen, No 80‑44, p 90.

Machinery and equipment of peach, dairy and poultry farmers, other than self‑propelled machinery, are exempt from ad valorem taxes by Section 12‑37‑220(14) of the South Carolina Code of Laws. 1979 Op Atty Gen, No 79‑132, p 212 (November 23, 1979) 1979 WL 29134.

Lots leased by the State to individuals for private residential purposes are not exempt from tax. 1979 Op Atty Gen, No 79‑100, p 138 (August 7, 1979) 1979 WL 29105.

Section 12‑37‑220B(1) of the Code does not exempt a house of a widow whose disabled veteran husband died prior to 1978. 1979 Op Atty Gen, No 79‑39, p 55 (March 2, 1979) 1979 WL 29045.

The property of a quasi‑municipal corporation that performs a governmental function is exempt from taxation provided the property is used exclusively for a public purpose. 1979 Op Atty Gen, No 79‑22, p 31 (February 7, 1979) 1979 WL 29028.

Property acquired by Dillon County before the date that the property and roll back taxes are a fixed charge for the year is exempt from such taxes. 1979 Op Atty Gen, No 79‑9, p 20 (January 18, 1979) 1979 WL 29015.

A manufacturing plant that was exempt under the 1970 Act is entitled to the unexpired years of exemption granted by the Act; a new plant constructed after March 1, 1978, would be limited, however, to the exemption provided in the Constitution and the 1978 Act; the exemption of nursing homes granted by the 1970 Act was repealed by the Constitution and cannot be granted for the 1979 and subsequent tax years. 1978 Op Atty Gen, No 78‑177, p 204 (October 24, 1978) 1978 WL 22645.

Vacant and unused property situated in Beaufort County and owned by a corporation organized for religious, educational, social, fraternal, charitable or other eleemosynary purposes is not exempt from ad valorem taxation. 1978 Op Atty Gen, No 78‑74, p 104 (April 24, 1978) 1978 WL 22555.

The governing body of Barnwell County is without authority to exempt property from taxation or to otherwise enlarge or limit an exemption granted by the General Assembly. 1978 Op Atty Gen, No 78‑2, p 7 (January 3, 1978) 1978 WL 22491.

Property cannot be sold for nonpayment of taxes incurred during the estate of the life tenant after the same is ended and title has vested in the remainderman. 1977 Op Atty Gen, No 77‑96 (April 6, 1977) 1977 WL 24438.

Property which is owned by the First Baptist Church of Clemson and occupied by the Pickens County Commission on Alcohol and Drug Abuse is not exempt from 1977 taxation. 1976‑77 Op Atty Gen, No 77‑338, p 272 (October 31, 1977) 1977 WL 24677

Only real property “actually occupied” by a church is exempt from taxation. 1976‑77 Op Atty Gen, No 77‑96, p 86 (April 6, 1977) 1977 WL 24438.

The exemption provided for in Section 65‑1522(13) [1976 Code Section 12‑37‑220] is extended in 1977 to motor vehicles of disabled veterans that have been issued special license tags under Section 46‑61 [1976 Code Section 56‑3‑1110] of the Code as amended in 1976 by Act 562. 1976‑77 Op Atty Gen, No 77‑30, p 35 (January 24, 1977) 1977 WL 24373.

The property of the Clarendon County Country Club is not exempt from ad valorem taxation by Section 65‑1522(6.1). [1976 Code Section 12‑37‑220]. 1976‑77 Op Atty Gen, No 77‑3 p. 12 (January 3, 1977) 1977 WL 24346.

The Comptroller General’s office is not required to issue an abatement as a condition precedent to a tax exemption granted by the Constitution or by statutory law. 1975‑76 Op Atty Gen, No 4554, p 427 (December 23, 1976) 1976 WL 23170.

Except in counties where proration statutes are provided, property transferred to the United States after December 31 preceding the tax year and before September 30 of the tax year is not subject to ad valorem taxes. 1975‑76 Op Atty Gen, No 4268, p 84 (February 23, 1976) 1976 WL 22888.

Property owned by the FHA on December 31 and subsequently conveyed on January 17 of the tax year is not subject to taxation. 1975‑76 Op Atty Gen, No 4227, p 8 (January 7, 1976) 1976 WL 22848.

A residence owned by a college and occupied by a faculty member which reasonably serves a college purpose is exempt from taxation. 1975‑76 Op Atty Gen, No 4230, p 12 January 13, 1976.

Property leased to the City of Anderson on which it operates a municipal parking lot is not exempt from ad valorem taxation to the owners of the property, however, the same would be exempt if owned by the City. 1974‑75 Op Atty Gen, No 4220, p 262 (December 22, 1975) 1975 WL 22517.

Armed Forces personnel and disabled veterans are exempt from personal property taxes on their vehicles. A veteran who has been classified as permanently and totally disabled by the Armed Forces should be granted a homestead exemption. 1974‑75 Op Atty Gen, No 4158, p 223 (October 15, 1975) 1975 WL 22453.

The word “shall” is mandatory in exempting property of organizations meeting the definition of nonprofit housing corporation. 1971‑72 Op Atty Gen, No 3386, p 248 (September 28, 1972) 1972 WL 20515.

It is doubtful that the property of a country club would qualify for this exemption because its property is probably used for purposes other than meetings and conducting the business of the country club. 1971‑72 Op Atty Gen, No 3344, p 181 (July 14, 1972) 1972 WL 20481.

Property of a fraternal association when used for social or athletic purposes would not qualify for the exemption. 1971‑72 Op Atty Gen, No 3344, p 181 (July 14, 1972) 1972 WL 20481.

The property of a fraternal, charitable, eleemosynary, educational or literary society, corporation or other association is exempt from county, municipal and school ad valorem property taxation provided such property is used exclusively for holding meetings and conducting business of such society, corporation or other association and provided further that the property is not used for revenue or profit. 1971‑72 Op Atty Gen, No 3344, p 181 (July 14, 1972) 1972 WL 20481.

The motor vehicles of only those disabled veterans who are entitled to compensation for certain types of injuries are exempt from property taxes. 1970‑71 Op Atty Gen, No 3179, p 150 (September 16, 1971) 1971 WL 17553.

Land that is dedicated and actually used as a burial ground is exempt from ad valorem taxation. 1970‑71 Op Atty Gen, No 3124, p 75 (May 4, 1971) 1971 WL 17498.

A county or municipality may not tax the State and, thus, no property owned by a State agency is subject to county or municipal taxation although such property may be used to produce revenue rather than for public use. 1969‑70 Op Atty Gen, No 3004, p 287 (October 19, 1970) 1970 WL 12278.

Land of a cemetery that is not set aside for sale as burial lots and not dedicated for such purposes is not exempt from the ad valorem tax. 1968‑69 Op Atty Gen, No 2787, p 282 (December 16, 1969) 1969 WL 10774.

That part of a cemetery that has been set aside for sale as burial lots, any mausoleum situate thereon, and the office building necessary therefor, are exempt from ad valorem property taxation. 1968‑69 Op Atty Gen, No 2787, p 282 (December 16, 1969) 1969 WL 10774.

The buildings and premises actually occupied by a church are exempt from ad valorem taxes by the provisions of SC Const, Art 10, Section 4, which exemption is self‑executing. 1968‑69 Op Atty Gen, No 2753, p 228 (October 27, 1969) 1969 WL 10748.

The exemption afforded by SC Const, Art 10, Section 4, for parsonages is limited in its application to the dwelling or residence that is owned and set apart by the church for its pastor’s residence. 1968‑69 Op Atty Gen, No 2753, p 228 (October 27, 1969) 1969 WL 10748.

The exemption afforded by SC Const, Art 10, Section 4, includes the property of a private school, college or institution of learning. 1968‑69 Op Atty Gen, No 2753, p 228 (October 27, 1969) 1969 WL 10748.

A church, being exempt from ad valorem taxes by SC Const, Art 10, Section 4, and item (14) of this section [Code 1962 Section 65‑1522], is not required to pay property tax on property acquired before the date on which the tax by law becomes due and payable. 1968‑69 Op Atty Gen, No 2773, p 263 (November 27, 1968) 1968 WL 9001.

Where an individual acquired property from a church subsequent to December 31, 1967, no tax could be collected for 1968. 1968‑69 Op Atty Gen, No 2773, p 263 (November 27, 1968) 1968 WL 9001.

The General Assembly has authority to exempt property from taxation for municipal, educational, literary, scientific, religious or charitable purposes, unless that authority is limited by the provisions of SC Const, Art 10, Section 4. 1967‑68 Op Atty Gen, No 2466, p 131 (June 11, 1968) 1968 WL 8865.

A charitable, social or fraternal corporation organized pursuant to chapter 13, Title 12, is not entitled to an exemption of its properties from the ad valorem property tax unless specifically provided for by the Constitution or by statute. 1965‑66 Op Atty Gen, No 2064, p 157 (June 9, 1966) 1966 WL 8530.

The act enacting item (45.1), served to exempt treatment facilities or equipment of manufacturing plants which control water or air pollution from the tax for the year 1966, provided the same was not assessed on or before the date the act was effective, which was April 22, 1966. 1965‑66 Op Atty Gen, No 2063, p 155 (June 9, 1966) 1966 WL 8529.

A mausoleum is a cemetery within the intent and meaning of SC Const, Art 10, Section 4 and of item (16) of this section [Code 1962 Section 65‑1522] and subject to the county ad valorem tax when owned by an association or society or when held with a view to profit or speculation in the sale thereof. 1965‑66 Op Atty Gen, No 1967, p 15 (January 14, 1966) 1966 WL 9289.

Radio and television sets owned and used by individuals in their home are not subject to property taxation under item (32). 1964‑65 Op Atty Gen, No 1819, p 69 (March 17, 1965) 1965 WL 7982.

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1. Constitutional issues

This section [Code 1962 Section 65‑1522] is not obnoxious to the Constitution, but is valid and good. Epworth Orphanage v Wilson, 185 SC 243, 193 SE 644 (1937). Byrd v Blue Ridge Rural Electrical Cooperative, Inc., 215 F2d 542 (1954), cert denied 348 US 915, 75 S Ct 295, 99 L Ed 717 (1955).

The power to prescribe what property shall be taxed implies the power to prescribe what property shall be exempt from taxation, and that in the absence of a constitutional provision to the contrary, the legislature may exempt such classes of property as in its opinion the public policy of the State requires. Byrd v. Blue Ridge Rural Elec. Co‑op. (C.A.4 (S.C.) 1954) 215 F.2d 542, certiorari denied 75 S.Ct. 295, 348 U.S. 915, 99 L.Ed. 717. Taxation 2286

Every presumption must be adjudged in favor of legislative action exempting property from taxation and it must not be declared invalid unless the conflict with the Constitution is irreconcilable. Byrd v. Blue Ridge Rural Elec. Co‑op. (C.A.4 (S.C.) 1954) 215 F.2d 542, certiorari denied 75 S.Ct. 295, 348 U.S. 915, 99 L.Ed. 717. Constitutional Law 1020

Denial of retroactive property tax exemptions for pollution control equipment, as to taxpayer that did not timely apply for such exemptions, did not violate equal protection; taxpayers who received exemptions either filed timely applied for exemptions, or applied only a few weeks, as opposed to years, after the deadline. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Constitutional Law 3563; Constitutional Law 3580; Taxation 2301

The generation and transmission of electric power by the Public Service Authority is a public and governmental function for the benefit of the people of South Carolina. Since the property leased to the Authority is an integral part of the system through which the Authority performs this public function, its exemption from taxation falls within the “municipal purposes” exception to the equality mandate of SC Const, Art 10, Section 1. Morgan v. Watts (S.C. 1970) 255 S.C. 212, 178 S.E.2d 147.

The class of property designated by 1969 Act No. 432 [1969 (56) 740], Section 18, that leased to the Authority and used as part of its electrical system, is of the essence of the legislative purpose, and the fundamental rule is that the State legislature has the right to make reasonable classifications of persons and property for taxation purposes. If the classification bears a reasonable relation to the legislative purpose sought to be effected, and if all the members of each class are treated alike under similar circumstances, the equal protection clauses of the State and Federal Constitutions are fully complied with. Morgan v. Watts (S.C. 1970) 255 S.C. 212, 178 S.E.2d 147.

2. Construction and application

The general rule is that exemptions of private property are strictly construed, because in such cases taxation is the rule and the exemption the exception; but exemptions of the property of municipal corporations are liberally construed, for exemptions of such property are the rule and taxation the exception. With us municipal corporations are merely agencies of the State for governmental purposes; and it has never been the policy of this State to tax its own agencies or instrumentalities of government. State v Columbia, 115 SC 108, 104 SE 337 (1920). Myrtle Beach v Holliday, 203 SC 25, 26 SE2d 12 (1943).

In the preamble of the act creating this section [Code 1962 Section 65‑1522] the legislature places its construction upon its powers under the Constitution to exempt such charities as orphanages from taxation and says in effect it has no such power. This construction by the General Assembly is a proper construction. Strong v. City of Sumter (S.C. 1937) 185 S.C. 203, 193 S.E. 649.

3. Municipal property

Applicable portions of this statute taken as a whole [see subdivision (21) of former Code 1962 Section 65‑1522], clearly imparted the intention that, in some circumstances, municipal property was taxable. But the circumstances were not clearly or precisely stated or defined. State v. City of Columbia (S.C. 1920) 115 S.C. 108, 104 S.E. 337.

Municipal building used in part for private purposes held exempt. A theater in a city hall owned by the city and let by it to private parties for theatrical and musical performances, for which an admission fee is charged, and also used for public gatherings of a religious, educational, social, or political nature, free of charge, except the actual cost of opening, heating and lighting, is “used exclusively for public purposes,” within the meaning of this section [Code 1962 Section 65‑1522] and SC Const, Art 10, Section 4. State v. City of Columbia (S.C. 1920) 115 S.C. 108, 104 S.E. 337. Taxation 2315

4. Public purposes

Property may be used exclusively for public purpose notwithstanding incidental private use of property. Charleston County Aviation Authority v. Wasson (S.C. 1982) 277 S.C. 480, 289 S.E.2d 416.

Fact that property is used by private business entity does not preclude use from being public; property of charitable trust or foundation when used exclusively for charitable and public purpose is exempt from taxation, and while there is no profit motive for such foundation or trust, same are private entities that serve by charities, public purpose. Charleston County Aviation Authority v. Wasson (S.C. 1982) 277 S.C. 480, 289 S.E.2d 416. Taxation 2311

Building erected by chamber of commerce was not exempt from taxation as “property used exclusively for public purposes,” where act conveying site stipulated that chamber of commerce might use building free of rent, and that restroom and office for county demonstration agent be provided, and that surplus space might be leased and surplus income divided equally between chamber of commerce and county. People’s Nat. Bank of Greenville v. Greenville Co. (S.C. 1934) 174 S.C. 256, 177 S.E. 369. Taxation 2315

5. Church property and parsonages

Approximately 13 acres of a 17.5‑acre tract owned by a church was not “actually occupied” by the church under the last sentence of Section 12‑37‑220A, where the summary of the proceedings before a county Tax Exempt Board included statements by church members that a large portion of the tract had not been cleared and was not used by the church, and therefore the finding of the South Carolina Tax Commission that the church “actually occupied” only 4.5 acres of the land was supported by substantial evidence. Westview Baptist Church v. Rembert (S.C.App. 1985) 286 S.C. 30, 331 S.E.2d 382.

Tax exemption for parsonage not limited to residence of ordained or formally authorized by church, but would also apply in case of one who performs duties of clergymen during his customary vocation but who has never been formally licensed or ordained as minister. In re Marlow (S.C. 1977) 269 S.C. 219, 237 S.E.2d 57.

Constitution and statute do not limit tax exemption to but one parsonage for each church. In re Marlow (S.C. 1977) 269 S.C. 219, 237 S.E.2d 57. Taxation 2355

Residence of director of music and education of church cannot be said to be parsonage, as construed for purposes of tax exemption, where record utterly fails to support or demonstrate the duties of director fall within parameters of minister or ordained minister. In re Marlow (S.C. 1977) 269 S.C. 219, 237 S.E.2d 57. Taxation 2355

Use of singular term parsonage in 1976 Code Section 12‑37‑220(8) does not show intent to limit exemption to one parsonage per church; assuming it did, constitutional language in Article 10 Section 4, which uses plural, would prevail. In re Marlow (S.C. 1977) 269 S.C. 219, 237 S.E.2d 57. Taxation 2101; Taxation 2355

This section [Code 1962 Section 65‑1522] impliedly authorizes owning and conveying of land by unincorporated churches. This section [Code 1962 Section 65‑1522] impliedly authorizes the practice of owning and conveying land and passage of good title from unincorporated churches. Jeffery v. Ehrhardt (S.C. 1947) 210 S.C. 519, 43 S.E.2d 483, 172 A.L.R. 1046.

6. Utilities

Property of the Public Service Authority was exempt from ad valoreum taxes by Code 1962 Section 59‑8, and the apparent intent of the legislature in adopting 1969 Act No. 432 [1969 (56) 740], Section 18, was to insure that this exemption should extend to extensive electrical facilities in the possession of and operated by the Authority. Morgan v. Watts (S.C. 1970) 255 S.C. 212, 178 S.E.2d 147.

The clear purpose of 1969 Act No. 432 [1969 (56) 740], Section 18, was to insure that property leased by the Public Service Authority and used by it as part of its electrical system should be treated for tax purposes as property acquired by it. This legislative purpose was relevant only to a particular state agency, the Authority. Its accomplishment by legislation tailored to meet the peculiar needs of this agency is not within the evil of special and local legislation which the framers sought to remedy by SC Const, Art 3, Section 34. Morgan v. Watts (S.C. 1970) 255 S.C. 212, 178 S.E.2d 147.

The words “leased” and “operated” in 1969 Act No. 432 [1969 (56) 740], Section 18, are verbal adjectives which also import futurity ‑ “all property (having been or to be) leased to and operated by” the Authority is exempt. Morgan v. Watts (S.C. 1970) 255 S.C. 212, 178 S.E.2d 147.

The exemption from ad valorem taxes formerly enjoyed by privately owned electric cooperatives in this State was removed by 1969 Act No. 432 [1969 (56) 740]. Morgan v. Watts (S.C. 1970) 255 S.C. 212, 178 S.E.2d 147.

7. Eleemosynary and educational associations

A building owned by a charitable organization, which claimed to exist for the benefit of a military college, was not exempt from ad valorem taxation under Section 12‑37‑220(A)(2), where the record failed to establish that the corporation’s relationship with the military college rendered it an institution of learning in its own right, and further failed to establish that the military college was the beneficial owner of any of the corporation’s property. Citadel Development Foundation v. Greenville County (S.C.App. 1983) 279 S.C. 443, 308 S.E.2d 797.

Corporation held not an eleemosynary corporation and act exempting it from taxation was not a valid exercise of legislative power. Textile Hall Corp. v. Hill (S.C. 1949) 215 S.C. 262, 54 S.E.2d 809.

8. Owner occupied residential property

School district’s payments under lease/installment‑purchase agreements, for capital construction improvements, including renovation and purchase of school buildings, were within meaning of phrase “school operating purposes,” under exemption, for owner‑occupied residential property, “from all property taxes imposed for school operating purposes,” so as to entitle district to reimbursement from Homestead Exemption Fund for taxes lost as result of exemption; by expressly excluding only general bond indebtedness from the exemption, the General Assembly by implication included the lease/installment‑purchase payments within the definition of school operating purposes. (Per Beatty, J., with one Justice concurring, and one Justice concurring in the result.) Berkeley County School Dist. v. South Carolina Dept. of Revenue (S.C. 2009) 383 S.C. 334, 679 S.E.2d 913, rehearing denied. States 123

9. Fraternal organizations

The Hibernian Society was a fraternal organization within the meaning of Section 12‑37‑220 since it was formed with the purpose of engaging in charitable work, and since the Society’s members’ enjoyment of each other’s companionship within the framework of their organization did not disqualify the Society as a fraternal society, corporation or association. Hibernian Soc. v. Thomas (S.C.App. 1984) 282 S.C. 465, 319 S.E.2d 339. Taxation 2344

10. Manufacturers

Taxation concerning manufacturers. Germania Sav. Bank v. Town of Darlington (S.C. 1897) 50 S.C. 337, 27 S.E. 846.

11. Intangible property

Where 1932 amendment to Constitution excluded intangible personal property from taxation except such as was especially provided by the General Assembly by the authority and within the limitation of such amendment, and prior to 1932 the Code had included provisions with respect to taxation of intangible personal property along with other taxable property and those provisions were carried forward in the Codes subsequent to the amendment, such recodification was not legislation ‘especially provided by General Assembly by authority and within limitation’ of the 1932 amendment and consequently intangible personal property was not subject to taxation. (Decided under former Code 1952, SS 65‑65, 65‑ 1501, 65‑1521, 65‑1522, 65‑1721; Const. art. 10, S 1.) Francis Marion Life Ins. Co. v. City of Columbia (S.C. 1960) 237 S.C. 162, 115 S.E.2d 796. Taxation 2176

12. Application for exemption

Taxpayer did not timely apply for property tax exemptions for pollution control equipment by merely signing its tax returns for years in question; to claim exemption, taxpayer was required to indicate value of equipment on specified line and attach list of equipment. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Taxation 2302

13. Retroactive exemptions

Department of Revenue was not authorized to grant retroactive exemption from property taxes for pollution control equipment. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Taxation 2301

Statute allowing Tax Commission to refund tax that was erroneously, improperly, or illegally paid did not authorize retroactive property tax exemptions for pollution control equipment in favor of taxpayer that did not timely apply for such exemptions. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Taxation 2301

Tax Commission’s refusal to grant retroactive property tax exemptions for pollution control equipment was not arbitrary and purposeful discrimination, so as to constitute a violation of equal protection, given that Tax Commission did not have authority to waive application deadline. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Constitutional Law 3563; Constitutional Law 3580; Taxation 2301

Statute allowing Department of Revenue the discretion to accept amended returns filed after date they were due did not authorize Department to grant retroactive property tax exemption for pollution control equipment. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Taxation 2301

14. Review

Since taxpayer admitted in its brief to Tax Commission that it filed its property tax returns without claiming exemptions for pollution control equipment, circuit court should not have considered the issue on appeal. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Taxation 2382

Because a school district was not being deprived of funds to which it was clearly entitled and because it had not been directly and adversely affected by a Tax Commission’s application of Section 12‑37‑220, the district lacked the legal interest, and thus the standing, to maintain a declaratory judgment action that certain real property owned by the South Carolina State Ports Authority had not been used exclusively for public purposes and was therefore not exempt from ad valorem taxation. Charleston County School Dist. v. South Carolina State Ports Authority (S.C.App. 1984) 283 S.C. 48, 320 S.E.2d 727.

**SECTION 12‑37‑222.** Leased equipment used by charitable, not‑for‑profit or governmental hospital deemed for tax purposes to be owned by hospital.

Equipment leased by and used in connection with the operation of charitable, not for profit, or governmental hospitals shall, for the purpose of ad valorem taxation, be deemed to be owned by the hospital.

HISTORY: 1982 Act No. 466, Part II, Section 20.

Library References

Taxation 2343.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 406 to 418.

**SECTION 12‑37‑224.** Motor homes or trailers for recreational travel; boats or watercraft with certain features.

(A) A motor home or trailer used for camping and recreational travel that is pulled by a motor vehicle on which the interest portion of indebtedness is deductible pursuant to the Internal Revenue Code as an interest expense on a qualified primary or secondary residence also is a primary or secondary residence for purposes of ad valorem property taxation in this State. The fair market value of a motor home or trailer used for camping and recreational travel that is pulled by a motor vehicle classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes.

(B)(1) A person who owns a boat or watercraft that contains a cooking area with an onboard power source, a toilet with exterior evacuation, and a sleeping quarter, may claim one boat or watercraft as a primary residence and one boat or watercraft as a secondary residence for purposes of ad valorem property taxation in this State. The fair market value of the boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes. A boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section is not a watercraft or motor for purposes of Section 12‑37‑220(B)(38).

(2) Only an individual may claim a qualifying boat or watercraft as his primary residence for purposes of ad valorem property taxation. The individual or his agent must certify the qualifying boat or watercraft as his primary residence pursuant to Section 12‑43‑220(c)(2)(ii). Additionally, the individual or his agent must provide any proof the assessor requires pursuant to Section 12‑43‑220(c)(2)(iv). One other qualifying boat or watercraft owned by an individual that cannot be considered a primary residence, or one other qualifying boat or watercraft owned by another person shall be considered a secondary residence for purposes of ad valorem property taxation.

(3) For purposes of this subsection a person includes an individual, a sole proprietorship, partnership, and an “S” corporation, including a limited liability company taxed as sole proprietorship, partnership, or “S” corporation.

HISTORY: 1999 Act No. 114, Section 1; 2006 Act No. 386, Section 39.A, eff June 14, 2006 applicable for property tax years beginning after 2005; 2007 Act No. 66, Section 1, eff June 7, 2007, applicable for travel trailer or boat or watercraft property tax years beginning after 2006; 2010 Act No. 279, Section 3, eff June 16, 2010.

Library References

Taxation 2171, 2176.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 89 to 91, 104 to 106, 111, 117, 119, 122, 126 to 127, 129.

Attorney General’s Opinions

A fifth wheel camper trailer may not be classified as a secondary residence under the provisions of Section 12‑37‑224. S.C. Op.Atty.Gen. (Nov. 29, 2000) 2000 WL 1803584.

**SECTION 12‑37‑225.** Consideration of federal or state income tax credits for low income housing with respect to valuation of real property for property tax purposes.

(A) Federal or state income tax credits for low income housing may not be taken into consideration with respect to the valuation of real property or in determining the fair market value of real property for property tax purposes. For properties that have deed restrictions in effect that promote or provide for low income housing, the income approach must be the method of valuation to be used.

(B) For purposes of this section, “low income housing” means housing intended for occupancy by households with incomes not exceeding eighty percent of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development.

HISTORY: 2006 Act No. 383, Section 1, eff June 14, 2006.

Editor’s Note

2006 Act No. 383, Section 2, provides as follows:

“This act takes effect upon approval by the Governor and is effective beginning with taxes to be assessed for the year of its enactment.”

Library References

Taxation 2515.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 582, 584 to 585.

Attorney General’s Opinions

Inclusionary zoning legislation at the local government level which conflicts with state law would be preempted by the state law, including legislation regarding taxation and fees. S.C. Op.Atty.Gen. (April 26, 2017) 2017 WL 1955651.

**SECTION 12‑37‑230.** Payments of services rendered in lieu of taxes by nonprofit housing corporations exempt under Section 12‑37‑220.

When any nonprofit housing corporation owns property within a county or municipality which is exempted from ad valorem taxes under Section 12‑37‑220, the county or the municipality or both are authorized to contract with such corporation for payments of services rendered by the county or municipality.

HISTORY: 1962 Code Section 65‑1522.01; 1971 (57) 396.

Library References

Municipal Corporations 967(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 2267, 2269 to 2275.

**SECTION 12‑37‑235.** Fees for fire protection for property exempt under Section 12‑37‑220.

Each county and municipality in this State may charge the owners of all real property exempt from ad valorem taxation under the provisions of items (2), except property of the State, counties, municipalities, school districts and other political subdivisions where such property is used exclusively for public purposes, (3), except public libraries, and (4) of subsection (A) of Section 12‑37‑220 of the 1976 Code, which is located within their respective boundaries, reasonable fees for fire protection; provided, that no fees may be charged by a county for protection or service provided to such owners by a municipality.

All such fees shall be based on the protection and services provided and which are maintained in whole or in part by funds from ad valorem taxes. No fees shall exceed the amount of taxes that would be levied on any of the subject property for any one service if the subject property were subject to ad valorem taxation.

HISTORY: 1978 Act No. 621, Section 3.

CROSS REFERENCES

County fire protection services, generally, see Sections 4‑19‑10 et seq., 4‑21‑10 et seq.

Municipal fire protection services, generally, see Section 5‑25‑10 et seq.

Library References

Municipal Corporations 967(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 2267, 2269 to 2275.

Attorney General’s Opinions

A court would likely find that a county may not use Section 12‑37‑235 to levy a fire service fee on behalf of a special purpose district. S.C. Op.Atty.Gen. (Jan. 15, 2014) 2014 WL 1398601.

Code Section 12‑37‑235 applies to real property exempt from ad valorem taxation by Section 12‑37‑220, except property of the State and its political subdivisions that are exempt from ad valorem taxation and real property of public libraries. 1982 Op Atty Gen, No 82‑68, p 68 (November 9, 1982) 1982 WL 155037.

**SECTION 12‑37‑240.** Payments in lieu of taxes by nonprofit housing corporations exempt under act of General Assembly.

When any nonprofit housing corporation owns property within a county or municipality which is exempted from ad valorem taxes under an act of the General Assembly, the county or municipality or both are authorized to contract with such corporation for payments in lieu of taxes for services rendered by the county or municipality.

HISTORY: 1962 Code Section 65‑1523.2; 1970 (56) 2605.

Library References

Municipal Corporations 967(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 2267, 2269 to 2275.

**SECTION 12‑37‑245.** Homestead exemption allowance increased.

The exemption amount of the homestead exemption allowed pursuant to Section 12‑37‑250 of the 1976 Code is raised from twenty to fifty thousand dollars for property tax year 2000 and thereafter, to be funded as provided herein. The amount appropriated to the Trust Fund for Tax Relief must be used to reimburse counties, municipalities, school districts, and special purpose districts, as applicable, for this increased exemption amount in the manner provided in Section 12‑37‑270 of the 1976 Code.

HISTORY: 2000 Act No. 406, Section 1(B), eff June 8, 2000, pursuant to provisions of Section 2‑7‑10 of the 1976 Code of Laws.

**SECTION 12‑37‑250.** Homestead exemption for taxpayers sixty‑five and over or those totally and permanently disabled or legally blind.

(A)(1) The first fifty thousand dollars of the fair market value of the dwelling place of a person is exempt from county, municipal, school, and special assessment real estate property taxes when the person:

(i) has been a resident of this State for at least one year and has reached the age of sixty‑five years on or before December thirty‑first;

(ii) has been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons; or

(iii) is legally blind as defined in Section 43‑25‑20, preceding the tax year in which the exemption is claimed and holds complete fee simple title or a life estate to the dwelling place. A person claiming to be totally and permanently disabled, but who has not been classified by one of the agencies, may apply to the state agency of Vocational Rehabilitation. The agency shall make an evaluation of the person using its own standards.

(2) The exemption includes the dwelling place when jointly owned in complete fee simple or life estate by husband and wife, and either has reached sixty‑five years of age, or is totally and permanently disabled, or legally blind pursuant to this section, before January first of the tax year in which the exemption is claimed, and either has been a resident of the State for one year.

(3) The exemption must not be granted for the tax year in which it is claimed unless the person or his agent makes written application for the exemption before July sixteenth of that tax year. If the person or his agent makes written application for the exemption after July fifteenth, the exemption must not be granted except for the succeeding tax year for a person qualifying pursuant to this section when the application is made. However, if application is made after July fifteenth of that tax year but before the first penalty date on property taxes for that tax year by a person qualifying pursuant to this section when the application is made, the taxes due for that tax year must be reduced to reflect the exemption provided in this section.

(4)(a) The application for the exemption must be made to the auditor of the county and to the governing body of the municipality in which the dwelling place is located upon forms provided by the county and municipality and approved by the department. A failure to apply constitutes a waiver of the exemption for that year. The auditor, as directed by the department, shall notify the municipality of all applications for a homestead exemption within the municipality and the information necessary to calculate the amount of the exemption.

(b) The application required may be:

(i) made in person at the auditor’s office;

(ii) by mail, when accompanied by a copy of documentation of age, or disability, or legal blindness; or

(iii) by internet in those instances where the auditor has access to official records documenting the appropriate eligibility standard.

The department shall assist auditors with compliance with the provisions of this subitem and by means of the approval required pursuant to subitem (a) of this item ensure uniform application procedures.

(5) “Dwelling place” means the permanent home and legal residence of the applicant.

(B) If a person would be entitled to a homestead tax exemption pursuant to this section except that he does not own the real property on which his dwelling place is located and his dwelling place is a mobile home owned by him but located on property leased from another, the mobile home is exempt from personal property taxes to the same extent and obtained in accordance with the same procedures as is provided for in this section for an exemption from real property taxes; provided, however, that a person may not receive the exemption from both real and personal property taxes in the same year.

(C) If a dwelling house and legal residence is located on leased or rented property and the dwelling house is owned and occupied by the owner even though at the end of the lease period the lessor becomes owner of the residence, the owner lessee qualifies for and is entitled to a homestead exemption in the same manner as though he owned a fee simple or life estate interest in the leased property on which his dwelling house is located.

(D) When a person who was entitled to a homestead tax exemption pursuant to this section dies or any person who was not sixty‑five years of age or older, blind, or disabled on or before December thirty‑first preceding the application period, but was at least sixty‑five years of age, blind, or disabled at the time of his death and was otherwise entitled dies and the surviving spouse acquires complete fee simple title or a life estate to the dwelling place within nine months after the death of the spouse, the dwelling place is exempt from real property taxes to the same extent and obtained in accordance with the same procedures as are provided for in this section for an exemption from real property taxes, so long as the spouse remains unmarried and the dwelling place is utilized as the permanent home and legal residence of the spouse. A surviving spouse who disposes of the dwelling place and acquires another residence in this State for use as a dwelling place may apply for and receive the exemption on the newly acquired dwelling place. The spouse shall inform the county auditor of the change in address of the dwelling place.

(E) The term “permanently and totally disabled” as used in this section means the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death.

(F) The department shall reimburse from funds appropriated for homestead reimbursement the state agency of Vocational Rehabilitation for the actual expenses incurred in making decisions relative to disability.

(G) The department shall develop advisory opinions as may be necessary to carry out the provisions of this section.

(H) Nothing in this section intends to cause the reassessment of a person’s property.

(I) The provisions of this section apply to life estates created by will and also to life estates otherwise created.

(J) The homestead tax exemption must be granted in the amount in this paragraph to a person who owns a dwelling in part in fee or in part for life when the person satisfies the other conditions of the exemption. The amount of the exemption must be determined by multiplying the percentage of the fee or life estate owned by the person by the full exemption. For purposes of the calculation required by this paragraph, a percentage of ownership less than five percent is considered to be five percent. The exemption may not exceed the value of the interest owned by the person.

HISTORY: 1962 Code Section 65‑1522.1; 1971 (57) 2057; 1972 (57) 2301; 1973 (58) 244, 412; 1974 (58) 2207; 1975 (59) 139, 821; 1977 Act No. 37; 1978 Act No. 644, Part II, Section 20; 1978 Act No. 444; 1979 Act No. 199, Part II, Section 15; 1980 Act No. 330; 1980 Act No. 331; 1982 Act No. 366; 1984 Act No. 512, Part II, Section 64A; 1986 Act No. 385, Section 1; 1989 Act No. 108, Section 1; 1989 Act No. 108, Section 2; 1990 Act No. 530, Section 1; 1991 Act No. 54, Section 1; 1997 Act No. 107, Section 3A; 2001 Act No. 18, Section 2, eff for property tax years beginning after 2001; 2006 Act No. 386, Sections 33, 55.C, eff June 14, 2006; 2008 Act No. 184, Section 1, eff March 31, 2008 and applies for homestead exemption applications filed after 2007.

CROSS REFERENCES

Applicability of the provisions of this section to dwellings held in trust, see Section 12‑37‑266.

Classification and assessment of property qualifying for exemption under section 12‑37‑250, see Section 12‑37‑252.

Constitutional provision regarding homestead exemption, see SC Const, Art III, Section 28.

Continuation of homestead exemption, see Section 12‑37‑255.

Property exempt from attachment, levy, and sale, see Section 15‑41‑30.

Property purchased by installment contract for sale, applicable exemptions, see Section 12‑43‑221.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

Discussion of homestead exemption in 2012 for taxpayer who moved in May 2011 and was already 65 at the time of the move. S.C. Op.Atty.Gen. (March 12, 2013) 2013 WL 1695509.

An exemption from tax is not tantamount to an exemption from fees. Because the plain language of section 12‑37‑250 makes no mention of fees, eligibility for a homestead exemption pursuant to that section will not alter a taxpayer’s obligations with regard to fees included on his property tax bill. S.C. Op.Atty.Gen. (April 24, 2012) 2012 WL 1649763.

Discussion of whether it is appropriate for the Town of Pendleton to assess property taxes against a disabled property owner in the same manner as all other citizens. S.C. Op.Atty.Gen. (Jan. 28, 2008) 2008 WL 317741.

Discussion of the authority of auditors to reassess the value of real property. S.C. Op.Atty.Gen. (Oct. 9, 2006) 2006 WL 3199993.

Creation by deed of joint life estate in grantor and his wife with rights of survivorship does not allow surviving wife to qualify for homestead exemption under provisions of Section 12‑37‑250 since wife’s life estate is not acquired by death of husband. Creation by deed of joint life estate in grantor and his wife with rights of survivorship, however, will satisfy “the ownership requirements for the exemption” where creation of life estate complies with requirements of Section 12‑37‑265. Surviving spouse must still satisfy other requirements of exemption for age, disability or blindness and residency. 1993 Op Atty Gen, No. 93‑29 (May 4, 1993) 1993 WL 720116.

Fact that will creates in surviving spouse a life estate that will terminate upon remarriage does not prevent that spouse from qualifying for homestead exemption so long as other requirements of exemption are satisfied. 1993 Op Atty Gen, No 93‑29 (May 4, 1993) 1993 WL 720116.

A purchaser of a mobile home, under an agreement that title to the mobile home is to be delivered upon completion of required payments, holds an interest in the title to the mobile home sufficient to satisfy the ownership requirement for part of the homestead exemption. 1989 Op Atty Gen, No. 89‑134, p 362 (November 20, 1989) 1989 WL 406223.

A new application for the homestead exemption is not required to continue the exemption when the mobile home of a person qualified and receiving the exemption is replaced by another mobile home. 1989 Op Atty Gen, No. 89‑120, p 329 (October 27, 1989) 1989 WL 406209.

A person who meets the qualifications for the homestead exemption may make application for the same from July sixteenth preceding the year for which the exemption is claimed through July fifteenth of the year in which the same is claimed. 1989 Op Atty Gen, No. 89‑80, p 213 (August 7, 1989) 1989 WL 406170.

When the legal title to a person’s residence is held by a trustee, that person must under the terms of the trust possess the right to use the residence for life before the same can qualify for the homestead exemption. 1988 Op Atty Gen, No. 88‑56, p 161 (July 25, 1988) 1988 WL 383539.

Where legal title to a person’s legal residence is held by a trustee, the person must possess, under the trust instrument, the right to use the dwelling for life before the homestead exemption can be granted. 1988 Op Atty Gen, No. 88‑15, p 52 (February 11, 1988) 1988 WL 383498.

A person, having failed to obtain a declaration of disability by the South Carolina Department of Vocational Rehabilitation and not having been so classified by the Department of Health and Human Services, Social Security Administration, until January 1, 1987, does not satisfy the conditions for the homestead exemption for years prior to the determination. 1987 Op Atty Gen, No. 87‑77, p 199 (August 27, 1987) 1987 WL 245485.

The County Auditor should not sign he homestead exemption application for other persons. 1981 Op Atty Gen, No 81‑12, p 16 (February 19, 1981) 1981 WL 96539.

When a surviving spouse obtains the complete fee or life estate of a homestead within nine months of the date of death of the deceased spouse and the deceased spouse was entitled to the homestead exemption, the full amount of the homestead exemption is to be granted. If the complete fee or life estate is not granted and the surviving spouse owns part of the homestead in fee or for life and the other conditions for the exemption are satisfied, the amount of the exemption is calculated by applying the spouse’s percentage of ownership in the homestead to the full amount of the exemption if the value of the homestead is fifteen thousand dollars or more. If the value of the homestead is less than fifteen thousand dollars, the amount of the exemption would be that percentage of the homestead’s value. 1980 Op Atty Gen, No 80‑70, p 120 (June 12, 1980) 1980 WL 81952.

When more than one person is the owner of a homestead and some but not all satisfy the other conditions provided by Section 12‑37‑250, a proportional exemption is to be granted. All owners are deemed to possess equal interest and it is that part of the exemption that represents the percentage of ownership of qualified persons to the whole fee or life estate that is to be granted. 1980 Op Atty Gen, No 80‑71, p 122 (June 12, 1980) 1980 WL 81953.

An Act bearing Ratification No. 360 provides that a homestead exempted in whole or in part by Section 12‑37‑250 is to be taxed upon an assessment equal to four percent of its fair market value. The homestead is limited to not more than five acres of land when the value thereof equals or exceeds fifteen thousand dollars, otherwise the same may exceed five acres; an application for residential classification is not needed for a homestead that qualifies for the exemption. 1980 Op Atty Gen, No 80‑48, p 96 (May 7, 1980) 1980 WL 81931.

A deed in which “A” grants to “A” and “B” as tenants in common for life with the remainder in fee simple to the survivor will not convey an estate during the tenancy in common that meets the ownership requirements for the homestead exemption. 1979 Op Atty Gen, No 79‑130, p 208 (November 20, 1979) 1979 WL 29132.

A travel trailer may be the dwelling place of a person otherwise qualified for the homestead exemption, notwithstanding the fact that it may be moved for short periods of time. 1979 Op Atty Gen, No 79‑124, p 177 (November 1, 1979) 1979 WL 29126.

A person must have been a resident of this State for at least one year on or before December 31 preceding the year for which the homestead exemption is claimed in order to qualify for the same; a person who is mentally incompetent cannot change legal residence during such incompetency. 1979 Op Atty Gen, No 79‑73, p 96 (June 5, 1979) 1979 WL 29078.

The declaration of disability for the homestead exemption may be made by an agency of any one of the fifty states of the United States or the federal government having authority to make such declaration. 1979 Op Atty Gen, No 79‑73, p 96 (June 5, 1979) 1979 WL 29078.

A person is totally and permanently disabled for purposes of the homestead exemption when the effective date of the declaration precedes the beginning of the tax year for which the exemption is claimed. 1979 Op Atty Gen, No 79‑67, p 84 (May 16, 1979) 1979 WL 29072.

A surviving spouse must possess the necessary ownership of the homestead on December 31 preceding the tax year for which the exemption is claimed. 1978 Op Atty Gen, No 78‑211, p 243 (December 27, 1978) 1978 WL 22679.

The homestead exemption is not available to a surviving spouse when the deceased spouse during lifetime failed to satisfy the required conditions for the exemption. 1978 Op Atty Gen, No 78‑205, p 238 (December 7, 1978) 1978 WL 22673.

Where a person by deed purports to grant an interest in property not owned by such person, the deed is to be disregarded for tax purposes, and as the basis for determining the ownership requirements for the homestead exemption. 1978 Op Atty Gen, No 78‑200, p 226 (November 30, 1978) 1978 WL 22668.

It is not constitutional to freeze taxes to a 1979 level for real property owned by persons qualified for the exemption provided by Section 12‑37‑250. 1978 Op Atty Gen, No 78‑187, p 212 (November 3, 1978) 1978 WL 22655.

The certificate of eligibility for the homestead exemption must be filed “with the county auditor” and this is not satisfied by depositing the certificate in the mails. 1978 Op Atty Gen, No 78‑165, p 193 (October 4, 1978) 1978 WL 22633.

A person who owns a residence in one county, however who actually resides in another county in the residence of his spouse and who is registered to vote in the spouse’s residence and who pays personal property taxes to the county of the spouse’s residence does not meet the requirements for the homestead exemption. 1978 Op Atty Gen, No 78‑88, p 114 (May 9, 1978) 1978 WL 22568.

A person who owns a residence in one county, who actually resides in another county in the residence of his spouse and who is registered to vote in the county of the spouse’s residence and who pays personal property taxes to the county of the spouse’s residence does not meet the requirements for the homestead exemption from the other residence. 1978 Op Atty Gen, No 78‑88, p 117 (May 9, 1978) 1978 WL 22568.

A surviving spouse, in order to qualify for the homestead exemption, must possess the necessary ownership of the homestead on December 31 preceding the year for which the exemption is claimed. 1978 Op Atty Gen, No 78‑83, p 110 (May 5, 1978) 1978 WL 22564.

The age for the surviving spouse to qualify for the homestead exemption provided by Section 12‑37‑250 was not extended by a 1978 Act bearing ratification number R 498; it is necessary that the surviving spouse be at least fifty‑seven years of age at the time of death of the deceased spouse in order to qualify for the exemption. 1978 Op Atty Gen, No 78‑82, p 110 (May 4, 1978) 1978 WL 22563.

A surviving spouse that is 57 years or older is entitled to the homestead exemption when it is shown that the deceased spouse was entitled to the exemption and such may be allowed although the deceased spouse had not applied for the exemption. 1976‑77 Op Atty Gen, No 77‑359, p 287 (November 10, 1977) 1977 WL 24697.

Title to real property acquired after the death of a spouse by acts of others would not satisfy the requirements of House Bill 2063 and the homestead exemption cannot be granted. 1976‑77 Op Atty Gen, No 77‑179, p 138 (June 7, 1977) 1977 WL 24521.

Title to real property is held by liquidating trustees of a corporation when its charter is forfeited and such ownership does not meet the requirement of the exemption provided by Section 65‑1522.1 [1976 Code Section 12‑37‑250]. 1976‑77 Op Atty Gen, No 77‑102, p 92 (April 11, 1977) 1977 WL 24444.

A bill that would limit the tax upon homesteads that qualify for the homestead exemption to the amount of taxes paid in the 1977 tax year or, if later, the year of qualification for such exemption, would be unconstitutional. 1976‑77 Op Atty Gen, No 77‑51, p 51 (February 8, 1977) 1977 WL 24394.

A person classified by the Railroad Retirement Board as permanently and totally disabled meets the requirements of 1962 Code Section 65‑1522.1 [1976 Code Section 12‑37‑250]. 1975‑76 Op Atty Gen, No 4485, p 344 (October 11, 1976) 1976 WL 23102.

The homestead exemption is to be granted the owner of a mobile home when located on property that belongs to another when the lease is month to month or for a longer term provided the other conditions of the statute are satisfied. 1975‑76 Op Atty Gen, No 4276, p 92 (March 2, 1976) 1976 WL 22896.

Eligibility for the homestead exemption must be met by December 31 next preceding the tax year. 1975‑76 Op Atty Gen, No 4263, p 76 (February 17, 1976) 1976 WL 22883.

A deed executed prior to December 31, 1971, that conveys property to a trustee for the benefit of the trustee for life with no duties imposed upon the trustee grants a life estate that qualifies for the homestead exemption. 1975‑76 Op Atty Gen, No 4252, p 55 (February 10, 1976) 1976 WL 22872.

The application for the agricultural classification of property pursuant to the provisions of Act 208, Acts of 1975, should be received by the tax assessor and the property classified and taxed as provided for in the Act; the homestead exemption as provided for in 1962 Code Section 65‑1522.1 [1976 Code Section 12‑37‑250] and the classification of property for residential purposes as provided for by Act 208, Acts of 1975, are independent of the other, however, that property which constitutes the homestead for the exemption must be classified as residential under the provisions of Act 208; the County Assessor of Marlboro County is without authority to extend an exemption of farm machinery from ad valorem taxation. 1975‑76 Op Atty Gen, No 4240, p 28 (February 2, 1976) 1976 WL 22860.

A mobile home used as a person’s dwelling place may qualify for the homestead exemption, notwithstanding that it may be registered and licensed with the South Carolina Highway Department. 1975‑76 Op Atty Gen, No 4231, p 14 (January 13, 1976) 1976 WL 22852.

Where a person appears at the county auditor’s office for the purpose of making written application for the homestead exemption and is prevented from doing so by the office, such person does not forfeit or waiver the exemption and the same should be granted. 1974‑75 Op Atty Gen, No 4215, p 257 (December 12, 1975) 1975 WL 22512.

Armed Forces personnel and disabled veterans are exempt from personal property taxes on their vehicles; a veteran who has been classified as permanently and totally disabled by the Armed Forces should be granted a homestead exemption. 1974‑75 Op Atty Gen, No 4158, p 223 (October 15, 1975) 1975 WL 22453.

A trustee vested with legal title to property is not entitled to the homestead exemption notwithstanding that the property is held for the use of a person over sixty‑five years for such person’s life. 1974‑75 Op Atty Gen, No 3989, p 6 (March 6, 1975) 1975 WL 22287.

A life estate for homestead exemption purposes must have been in existence on December 31, 1971, if created other than by will; a joint life estate of husband and wife would qualify if timely or properly created, however on death of a life tenant the exemption would depend on right of survivorship; the joint ownership of property by husband and wife satisfies the exemption if either are permanently disabled. 1974‑75 Op Atty Gen, No 3950, p 24 (January 28, 1975) 1975 WL 22248.

Proof of blindness as defined by Act 958 of 1966 is a condition precedent for the homestead exemption. The proof may be by the statement of the South Carolina Commission for the Blind or the statement of an approved ophthalmologist accompanied by evidence of his approval. 1974‑75 Op Atty Gen, No 3941, p 20 (January 23, 1975) 1975 WL 22239.

It is not conditional upon payment of city or municipal property taxes on the homestead. 1971‑72 Op Atty Gen, No 3416, p 292 (November 20, 1972) 1972 WL 20540.

The homestead exemption is an immunity annexed to specific property. 1971‑72 Op Atty Gen, No 3401, p 268 (October 26, 1972) 1972 WL 20527.

The sale of property during the tax year does not affect the homestead exemption in that the person owning the property on December 31 of the year preceding is the person liable for the tax. 1971‑72 Op Atty Gen, No 3382, p 238 (September 27, 1972) 1972 WL 20511.

A life estate in real property would not qualify the owner of such an estate to the homestead exemption. 1971‑72 Op Atty Gen, No 3247, p 32 (January 17, 1972) 1972 WL 20394.

Mobile home located on land belonging to another. It is doubtful that a mobile home located on land belonging to another would constitute real property but if the same would constitute real property, it would not qualify for the homestead exemption because the occupant thereof would not be owner of fee simple title to the homestead. 1971‑72 Op Atty Gen, No 3248, p 33 (January 17, 1972) 1972 WL 20395.

Property held in fee simple by three persons, when only two occupy it. Property held in fee simple by three persons does not qualify for the homestead exemption when only two of them occupy the property as their legal residence. 1971‑72 Op Atty Gen, No 3247, p 32 (January 17, 1972) 1972 WL 20394.

When spouse and children of intestate entitled to exemption. Where a person dies intestate survived by a spouse and children, the homestead would not be entitled to the exemption unless the surviving spouse and the children are all 65 years of age or older and make the homestead their legal residence. 1971‑72 Op Atty Gen, No 3251, p 36 (January 17, 1972) 1972 WL 20398.

Where title retained by seller pending purchaser’s compliance with conditions of contract. Property would not qualify for the homestead exemption when purchased under a purchase money contract wherein title is retained by the seller pending compliance on the part of the purchaser with the conditions of the contract. 1971‑72 Op Atty Gen, No 3249, p 34 (January 17, 1972) 1972 WL 20396.

A mobile home that is not real property is not subject to the homestead exemption. 1971‑72 Op Atty Gen, No 3242, p 24 (January 11, 1972) 1972 WL 20496.

When a mobile home is permanently attached to the land and is the legal residence of person who otherwise qualifies for the homestead exemption and is owned by such person in fee simple, then the same is exempt by the homestead exemption. 1971‑72 Op Atty Gen, No 3242, p 24 (January 11, 1972) 1972 WL 20496.

Notes of Decisions

Construction and application 1

1. Construction and application

Taxpayer, who was over the age of 65 for the relevant tax year, was not disqualified from receiving the four percent assessment ratio for a homestead exemption, even if he did rent out his home for more than 14 days; the requirement that a taxpayer’s residence must comply with an Internal Revenue Code provision, that a property could not be rented for more than 14 days, only applied to a four percent assessment allowed by that item, which would not include the homestead exemption because that item only dealt with the primary residence assessment ratio, and the homestead exemption was found in an another chapter. Mead v. Beaufort County Assessor (S.C.App. 2016) 419 S.C. 125, 796 S.E.2d 165, rehearing denied. Taxation 2317

While taxpayer was eligible for homestead exemption in the tax year in question, taxpayer’s eligibility for homestead exemption in subsequent tax years would be contingent on no change in his circumstances, and therefore, in the absence of any evidence regarding the following years, the administrative law court (ALC) erred in determining taxpayer’s eligibility for the homestead exemption and four percent assessment ratio for the subsequent tax years. Mead v. Beaufort County Assessor (S.C.App. 2016) 419 S.C. 125, 796 S.E.2d 165, rehearing denied. Action 6

Court of Appeals would not consider county assessor’s interpretation of statutes providing homestead exemption, where the statutes did not contain any ambiguity, and therefore, there was nothing to construe in any party’s favor. Mead v. Beaufort County Assessor (S.C.App. 2016) 419 S.C. 125, 796 S.E.2d 165, rehearing denied. Taxation 2317

**SECTION 12‑37‑251.** Calculation of rollback millage; equivalent millage.

(A) RESERVED

(B) RESERVED

(C) RESERVED

(D) RESERVED

(E) Rollback millage is calculated by dividing the prior year property taxes levied as adjusted by abatements and additions by the adjusted total assessed value applicable in the year the values derived from a countywide equalization and reassessment program are implemented. This amount of assessed value must be adjusted by deducting assessments added for property or improvements not previously taxed, for new construction, for renovation of existing structures, and assessments attributable to increases in value due to an assessable transfer of interest.

(F) RESERVED

(G) If the boundaries of a municipality extend into more than one county and those counties implement the countywide appraisal and equalization programs required pursuant to Section 12‑43‑217 on different schedules, then the governing body of the municipality shall set an equivalent millage to be used to compute municipal ad valorem property taxes. The equivalent millage to be set by the municipal governing body must be determined by methodology established by the respective county auditors which must be consistent with the methodology for calculating equivalent millage to be established by the Department of Revenue for use in these situations for the purpose of equalizing the municipal property tax on real property situated in different counties.

HISTORY: 1995 Act No. 145, Part II, Section 119B; 1996 Act No. 401, Section 1; 1996 Act No. 458, Part II, Section 33B; 1997 Act No. 106, Section 1; 1997 Act No. 155, Part II, Section 15A; 1998 Act No. 419, Part II, Section 29C; 1998 Act No. 442, Section 4B; 1999 Act No. 100, Part II, Section 51; 1999 Act No. 114, Section 3; 2004 Act No. 226, Section 1, eff May 13, 2004 and applies to property tax years beginning after 2003; 2006 Act No. 386, Section 55.D, eff June 14, 2006; 2006 Act No. 388, Pt I, Section 4.C, eff June 10, 2006; 2011 Act No. 57, Sections 3.A, 3.B, eff June 14, 2011.

Editor’s Note

2011 Act No. 57, Section 3.C, provides as follows:

“This section takes effect for rollback millage calculated for property tax years beginning after 2010.”

CROSS REFERENCES

Millage rate increase limitation, see Section 6‑1‑320.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

Counties that experience an overall decrease in property values in a reassessment year should employ the rollback calculation provided in Section 12‑37‑251. S.C. Op.Atty.Gen. (June 28, 2011) 2011 WL 2648717.

Section 12‑37‑251(E) must be followed when calculating rollback millage and the District or the County is without authority to make any adjustments to the rollback calculation not called for under this provision. S.C. Op.Atty.Gen. (Oct. 14, 2009) 2009 WL 3658272.

School operating millage as referred to in section 12‑37‑251 includes millage imposed for the purpose of funding education for kindergarten through twelfth grade, school districts and school boards, vocational schools, career and technology centers, and alternative schools. S.C. Op.Atty.Gen. (Nov. 27, 2007) 2007 WL 4284627.

Discussion of whether the Cherokee Springs Fire District can collect millage under this section. S.C. Op.Atty.Gen. (Feb. 12, 2003) 2003 WL 21040134.

NOTES OF DECISIONS

Rollback millage 1

1. Rollback millage

Municipality erred in using nonstatutory variables as adjustments from total property tax revenue for preceding year, in calculating the rollback millage rate in reassessment year; statute governing calculation of rollback millage rate did not permit any adjustments to property tax revenue, and municipality deducted 7.5% for expected successful appeals of valuations by taxpayers, and adjusted revenue to reflect 86% collection rate. Angus v. City of Myrtle Beach (S.C. 2005) 363 S.C. 1, 609 S.E.2d 808, rehearing denied. Municipal Corporations 956(2)

**SECTION 12‑37‑252.** Classification and assessment of property qualifying for exemption under Section 12‑37‑250.

(A) Notwithstanding any other provision of law, property that qualifies for the homestead exemption pursuant to Section 12‑37‑250 is classified and taxed as residential on an assessment equal to four percent of the property’s fair market value. Any agriculturally classified lands that are a part of the homestead must be taxed on an assessment equal to four percent of the lands’ value for agricultural purposes. The county auditor shall notify the county assessor of the property so qualifying and no further application is required for such classification and taxation.

(B) When a person qualifies for a refund pursuant to Sections 12‑60‑2560 and 12‑43‑220(c) for prior years’ eligibility for the four percent owner‑occupied residential assessment ratio, the person also may be certified for a homestead tax exemption pursuant to Section 12‑37‑250. This refund does not extend beyond the immediate preceding tax year. The refund is an exception to the limitations imposed by Section 12‑60‑1750.

(C) Notwithstanding any other provision of law, if a deceased taxpayer failed to claim the assessment ratio allowed pursuant to Section 12‑43‑220(c) or the exemption allowed pursuant to Section 12‑37‑250, or both, before the date of the taxpayer’s death, then the personal representative of the deceased taxpayer’s estate is deemed the agent of the deceased taxpayer for purposes of the applications required pursuant to these sections and any claim for refund arising pursuant to resulting overpayments. The timeliness of the filing by a personal representative of applications or claims for refund under this subsection and the property tax years to which they apply are determined by those property tax years open to the deceased taxpayer immediately before the taxpayer’s death.

(D) Notwithstanding any other provision of law, when a person applies for the exemption allowed pursuant to Section 12‑37‑250 and was qualified for this exemption in the prior tax year in addition to the current tax year, the person may be certified for the exemption, not to extend beyond the immediate preceding tax year.

HISTORY: 1980 Act No. 332; 1981 Act No. 90, Section 1; 1984 Act No. 366; 1996 Act No. 431, Section 19; 2002 Act No. 297, Section 1, eff June 3, 2002.

Editor’s Note

2002 Act No. 297, Section 2, provides as follows:

“This act takes effect upon approval by the Governor and applies for property tax years beginning after 2000. The deadline for filing an application for the four percent assessment ratio and the homestead exemption, or both, and any claims for refund arising thereunder, for property tax year 2001 is extended through the sixtieth day following the approval of this act by the Governor.”

Library References

Taxation 2317, 2515, 2523.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292, 582, 584 to 585, 596 to 598.

**SECTION 12‑37‑255.** Homestead exemption to continue; county auditor to be informed of change affecting eligibility.

(A) The homestead exemption initially granted pursuant to Section 12‑37‑250 continues to be effective for successive years in which the ownership of the homestead or the other qualifications for the exemption remain unchanged. Notification of a change affecting eligibility must be given immediately to the county auditor.

(B) The notification must be given by the person liable for payment of the taxes on the homestead in the year of change and in each successive year that the exemption is improperly granted. The amount of a tax exemption granted by reason of the failure to give the notification and a penalty equal to twenty‑five percent of the amount of the exemption is due and payable for each year in which the exemption is granted by reason of the failure to give notice. The penalty and the amount of tax must be added to the current year’s duplicate and collected in the same manner as other taxes. A lien is created for the tax and penalty upon the property exempted by reason of the failure to give notification, which lien has priority over all other liens.

(C) The department must be notified by the county auditor of the amount of tax and penalty payable by reason of the failure to give the notification. The amount of the tax and penalty must be withheld by the department from the next disbursement of state funds to that county and, if it is a municipal tax, to the municipality.

HISTORY: 1976 Act No. 536, Sections 1, 2; 1981 Act No. 93, Section 2; 2006 Act No. 386, Section 55.E, eff June 14, 2006.

CROSS REFERENCES

Constitutional provisions for homestead exemptions, see SC Const, Art III, Section 28.

Other statutory provisions for homestead exemptions, see Section 15‑41‑10 et seq.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

A new application for the homestead exemption is not required to continue the exemption when the mobile home of a person qualified and receiving the exemption is replaced by another mobile home. 1989 Op Atty Gen, No. 89‑120, p 329 (October 27, 1989) October 27, 1989.

**SECTION 12‑37‑260.** Exemption for holders of life estate; application of Section 12‑37‑250.

Exemption for holders of a life estate as provided for in Section 12‑37‑250 shall be effective for real property tax purposes for the 1972 tax year provided that such holders make application to the county auditor on or before May 1, 1972.

Nothing herein shall affect the exemptions otherwise granted.

The provisions of Section 12‑37‑250 shall apply to life estates created by will and also to life estates otherwise created which were in effect on or before December 31, 1971.

HISTORY: 1962 Code Section 65‑1522.1:1; 1972 (57) 2301.

CROSS REFERENCES

Constitutional provision regarding homestead exemption, see SC Const, Art III, Section 28.

Homestead tax exemption for certain life estates, see Section 12‑37‑265.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

Where a person appears at the county auditor’s office for the purpose of making written application for the homestead exemption and is prevented from doing so by the office, such person does not forfeit or waiver the exemption and the same should be granted. 1974‑75 Op Atty Gen, No 4215, p 257 (December 12, 1975) 1975 WL 22512.

**SECTION 12‑37‑265.** Criteria for qualification of life estates for homestead tax exemption.

Notwithstanding any other provision of law, when a person is entitled to the homestead tax exemption provided by Section 12‑37‑250 of the 1976 Code and owns fee simple title to the homestead, and who thereafter creates a life estate for such person by conveyance of the remainder, the life estate so created shall satisfy the ownership requirements for the exemption. The term “person” shall include husband and wife when the homestead is jointly owned and either is entitled to the exemption.

HISTORY: 1980 Act No. 350, Section 1.

CROSS REFERENCES

Another provision regarding exemption for certain holders of life estates, see Section 12‑37‑260.

Constitutional provision regarding homestead exemption, see SC Const, Art III, Section 28.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

Creation by deed of joint life estate in grantor and his wife with rights of survivorship does not allow surviving wife to qualify for homestead exemption under provisions of Section 12‑37‑250 since wife’s life estate is not acquired by death of husband. Creation by deed of joint life estate in grantor and his wife with rights of survivorship, however, will satisfy “the ownership requirements for the exemption” where creation of life estate complies with requirements of Section 12‑37‑265. Surviving spouse must still satisfy other requirements of exemption for age, disability or blindness and residency. 1993 Op Atty Gen No. 93‑29 (May 4, 1993) WL 720116.

Fact that will creates in surviving spouse a life estate that will terminate upon remarriage does not prevent that spouse from qualifying for homestead exemption so long as other requirements of exemption are satisfied. 1993 Op Atty Gen No. 93‑29 (May 4, 1993) WL 720116.

**SECTION 12‑37‑266.** Homestead exemption for dwellings held in trust; application of Section 12‑37‑250.

(A) If a trustee holds legal title to a dwelling that is the legal residence of a beneficiary sixty‑five years of age or older, or totally and permanently disabled, or blind, and the beneficiary uses the dwelling, the dwelling is exempt from property taxation in the amount and manner as dwellings are exempt pursuant to Section 12‑37‑250, if the beneficiary meets the other conditions required for the exemption. A copy of the trust agreement must be provided to certify this exemption. The trustee may apply in person or by mail to the county auditor for the exemption on a form approved by the department. Further application is not necessary while the property for which the initial application was made continues to meet the eligibility requirements. The trustee shall notify the county auditor of a change in classification within six months of the change. If the trustee fails to notify the county auditor within six months, a penalty must be imposed equal to one hundred percent of the tax paid, plus interest on that amount at the rate of one‑half of one percent a month. In no case may the penalty be less than thirty dollars or more than the current year’s taxes. This penalty and any interest are considered ad valorem taxes due on the property for purposes of collection and enforcement.

(B) The department shall reimburse the taxing entity for the taxes not collected by reason of the exemption in the same manner and under the same conditions as reimbursement is provided for the exemption allowed pursuant to Section 12‑37‑250.

HISTORY: 1980 Act No. 389, Sections 1, 2; 1993 Act No. 164, Part II, Section 104B; 1997 Act No. 107, Section 1; 2006 Act No. 386, Section 55.F, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 4, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 4, in (A), added the second sentence, relating to proof for homestead exemption for property held in trust.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

When the legal title to a person’s residence is held by a trustee, that person must under the terms of the trust possess the right to use the residence for life before the same can qualify for the homestead exemption. 1988 Op Atty Gen, No. 88‑56, p 161 (July 25, 1988) 1988 WL 383539.

Where legal title to a person’s legal residence is held by a trustee, the person must possess, under the trust instrument, the right to use the dwelling for life before the homestead exemption can be granted. 1988 Op Atty Gen, No. 88‑15, p 52 (February 11, 1988) 1988 WL 383498.

**SECTION 12‑37‑270.** Reimbursement for tax loss in counties allowing homestead exemption.

(A) As provided in Section 11‑11‑150, there must be credited to the Trust Fund for Tax Relief in a fiscal year an amount sufficient to pay the reimbursement provided by this section. From the trust fund, the department annually shall pay to the county treasurer of the county in which the dwelling is situate for the account of each county, school district, or special district in it a sum equal to the amount of taxes that was not collected for the county, school district, or special district by reason of the exemption provided for in Section 12‑37‑250. The department also annually, from the trust fund, shall pay to the governing body of the municipality in which the dwelling is situate a sum equal to the amount of taxes that was not collected for the municipality by reason of the exemption provided for in Section 12‑37‑250. However, no reimbursement must be paid pursuant to this section for revenue for school operations not collected because of the exemption allowed pursuant to Section 12‑37‑250. The county treasurer and municipal governing body shall furnish the department on or before April first following the tax year, or during an extension authorized by the department not to exceed sixty days, an accounting or statement as prescribed by the department that reflects the amount of county, municipal, school district, or special district taxes that was not collected because of the exemption. Funds paid by the department as the result of an erroneous or improper application must be returned to the department for deposit in the general fund of the State.

(B) Notwithstanding another provision of law, the department shall purchase and distribute the applications for the homestead exemption and the costs must be paid from the trust fund.

(C) The department may promulgate regulations necessary to carry out the provisions of this section.

HISTORY: 1962 Code Section 65‑1522.2; 1971 (57) 2058; 1978 Act No. 644, Part II, Section 20; 1979 Act No. 199, Part II, Section 22; 1998 Act No. 419, Part II, Section 29F; 2006 Act No. 386, Section 55.G, eff June 14, 2006; 2006 Act No. 388, Pt I, Section 4.D, eff June 10, 2006; 2007 Act No. 110, Section 26, eff June 21, 2007; 2007 Act No. 116, Section 32, eff June 28, 2007, applicable for tax years beginning after 2007.

CROSS REFERENCES

Constitutional provision regarding homestead exemption, see SC Const, Art III, Section 28.

Reimbursement of counties and municipalities for revenue lost as a result of the business inventory tax exemption, see Section 12‑37‑450.

Attorney General’s Opinions

If residentially classed property within a taxing entity is taxed upon an assessment that is less than four percent of its fair market value, the amount of the homestead exemption reimbursement is likewise to be calculated upon the assessment ratio so used. 1980 Op Atty Gen, No 80‑65, p 109 (June 5, 1980) 1980 WL 81948.

The offices of the State Treasurer and the Comptroller General should disburse funds appropriated to Richland County to the County Treasurer and not to the County Finance Department. 1979 Op Atty Gen, No 79‑86, p 118 (June 29, 1979) 1979 WL 29091.

**SECTION 12‑37‑275.** Date for submission for requests for reimbursement.

Notwithstanding another provision of law, requests for reimbursement for taxes not collected the previous year must not be received by the department before January first. These requests must be for the reimbursement of eligible accounts that accrue before the first penalty date each year. Those eligible accounts that accrue or are discovered on or after the first penalty date of the tax year must be submitted to the department in the next year’s reimbursement request. These requests do not extend beyond the immediate preceding tax year.

HISTORY: 1980 Act No. 333, Section 2; 1996 Act No. 431, Section 20; 2006 Act No. 386, Section 55.H, eff June 14, 2006.

**SECTION 12‑37‑280.** Reimbursement of localities for tax loss due to homestead exemption.

(A) A county, municipality, school district, and special district in which a person who has reached the age of sixty‑five years receives a homestead property tax exemption must be reimbursed for the exemption from the Trust Fund for Tax Relief. The reimbursement must be made by the department on an annual basis on the terms and subject to the conditions as it may prescribe.

(B) This section does not authorize property tax exemption other than as provided for by the laws and Constitution of this State.

HISTORY: 1962 Code Section 65‑1522.3; 1971 (57) 709; 1978 Act No. 644, Part II, Section 20; 1998 Act No. 419, Part II, Section 29G; 2006 Act No. 386, Section 55.I, eff June 14, 2006.

CROSS REFERENCES

Constitutional provision regarding homestead exemption, see SC Const, Art III, Section 28.

**SECTION 12‑37‑285.** Incorporated municipalities may provide for homestead exemptions from municipal ad valorem taxes on real property.

Any incorporated municipality in this State may by ordinance provide for homestead exemptions from municipal ad valorem taxes on real property for persons eligible for such exemptions under Section 12‑37‑250 and in amounts not exceeding those provided in that section. Exemptions may be in a lesser amount if the ordinance shall so provide. Applications for exemptions and other procedures related thereto shall be as prescribed in the ordinance providing for the exemption. Municipalities establishing homestead exemptions shall not receive reimbursement therefor from the general fund of the State.

HISTORY: 1962 Code Section 65‑1522.5; 1976 Act No. 473.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

A will that devises property in life to joint tenants with the right of survivorship satisfies the ownership requirements in the survivor for homestead tax exemption purposes. 1982 Op Atty Gen, No 82‑49, p 54 (July 9, 1982) 1982 WL 155018.

**SECTION 12‑37‑290.** General homestead exemption.

The first fifty thousand dollars of the fair market value of the dwelling place of persons shall be exempt from county, school and special assessment real estate property taxes when such persons have been residents of this State for at least one year, have each reached the age of sixty‑five years on or before December thirty‑first or any person who has been classified as totally and permanently disabled by a state or federal agency having the function of so classifying persons or any person who is legally blind as defined in Section 43‑25‑20, preceding the tax year in which the exemption herein is claimed and hold complete fee simple title or a life estate to the dwelling place. Any person claiming to be totally and permanently disabled, but who has not been so classified by one of such agencies, may apply to the Vocational Rehabilitation Department. The agency shall make an evaluation of such person using its own standards. The exemption shall include the dwelling place when jointly owned in complete fee simple or life estate by husband and wife and either has reached sixty‑five years of age, or is totally and permanently disabled, on or before December thirty‑first preceding the tax year in which the exemption is claimed and either has been a resident of the State for one year. The exemption shall not, however, be granted unless such persons or their agents make written application therefor on or before May first of the tax year in which the exemption is claimed and shall also pay all real property taxes due by such persons before the date prescribed by statute for the imposition thereon of a late penalty or interest charge. The application for the exemption shall be made to the auditor of the county in which the dwelling place is located upon forms, provided by the county and approved by the department, and a failure to so apply shall constitute a waiver of the exemption for that year. The term “dwelling place” as used herein shall mean the permanent home and legal residence of the applicant.

The term “permanently and totally disabled” as used herein shall mean the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, which has lasted or is expected to last for a continuous period of twelve months or more or result in death.

The department shall reimburse the Vocational Rehabilitation Department for the actual expenses incurred in making decisions relative to disability from funds appropriated for homestead reimbursement.

The department shall promulgate such rules and regulations as may be necessary to carry out the provisions herein.

Nothing herein shall be construed as an intent to cause the reassessment of any person’s property.

The provisions of this section shall apply to life estates created by will and also to life estates otherwise created which were in effect on or before December 31, 1971.

HISTORY: 1962 Code Section 65‑1522.10; 1974 (58) 2810; 2015 Act No. 87 (S.379), Section 5, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 5, in the first paragraph, substituted “The first fifty thousand dollars” for “The first ten thousand dollars”, substituted “by a state or federal agency” for “by a State or Federal agency”, substituted “may apply to the Vocational Rehabilitation Department” for “may apply to the State Agency of Vocational Rehabilitation”, and substituted “approved by the department” for “approved by the Comptroller General”; in the third paragraph, substituted “The department” for “The Comptroller General”, and “the Vocational Rehabilitation Department” for “the State Agency of Vocational Rehabilitation”; and in the fourth paragraph, substituted “The department” for “The Comptroller General”.

CROSS REFERENCES

Constitutional provision regarding homestead exemption, see SC Const, Art III, Section 28.

Property purchased by installment contract for sale, applicable exemptions, see Section 12‑43‑221.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

Attorney General’s Opinions

A lease for life and for a nominal consideration would not satisfy the ownership requirements for the homestead exemption. 1980 Op Atty Gen, No 80‑58, p 106 (May 21, 1980) 1980 WL 81941.

A newly‑purchased lot may be consolidated on the tax rolls with adjoining parcels for tax purposes, including the homestead exemption. 1979 Op Atty Gen, No 79‑17, p 27 (January 31, 1979) 1979 WL 29023.

A person must have been a resident of this State for at least one year on or before December 31 preceding the year for which the homestead exemption is claimed in order to qualify for the same; a person who is mentally incompetent cannot change legal residence during such incompetency. 1979 Op Atty Gen, No 79‑73, p 96 (August 27, 1987) 1987 WL 245485.

The declaration of disability for the homestead exemption may be made by an agency of any one of the fifty states of the United States or the federal government having authority to make such declaration. 1979 Op Atty Gen, No 79‑73, p 96 (August 27, 1987) 1987 WL 245485.

A surviving spouse must possess the necessary ownership of the homestead on December 31 preceding the tax year for which the exemption is claimed. 1978 Op Atty Gen, No 78‑211, p 243 (December 27, 1978) 1978 WL 22679.

The homestead exemption is not available to a surviving spouse when the deceased spouse during lifetime failed to satisfy the required conditions for the exemption. 1978 Op Atty Gen, No 78‑205, p 238 (December 7, 1978) 1978 WL 22673.

Where a person by deed purports to grant an interest in property not owned by such person, the deed is to be disregarded for tax purposes, and as the basis for determining the ownership requirements for the homestead exemption. 1978 Op Atty Gen, No 78‑200, p 226 (November 30, 1978) 1978 WL 22668.

The certificate of eligibility for the homestead exemption must be filed “with the county auditor” and this is not satisfied by depositing the certificate in the mails. 1978 Op Atty Gen, No 78‑165, p 193 (October 4, 1978) 1978 WL 22633.

A person who owns a residence in one county, however who actually resides in another county in the residence of his spouse and who is registered to vote in the spouse’s residence and who pays personal property taxes to the county of the spouse’s residence does not meet the requirements for the homestead exemption. 1978 Op Atty Gen, No 78‑88, p 114 (May 9, 1978) 1978 WL 22568.

A person who owns a residence in one county, who actually resides in another county in the residence of his spouse and who is registered to vote in the county of the spouse’s residence and who pays personal property taxes to the county of the spouse’s residence does not meet the requirements for the homestead exemption from the other residence. 1978 Op Atty Gen, No 78‑88, p 117 (May 9, 1978) 1978 WL 22568.

The land area for both the homestead exemption and for the classification of the legal residence for property tax purposes must be ascertained and the homestead exemption is without acreage limitation while that for classification is limited to five acres. 1974‑75 Op Atty Gen, No 4189, p 241 (November 19, 1975) 1975 WL 22484.

There is no fixed income level for the homestead exemption when determining if the applicant is permanently and totally disabled. 1974‑75 Op Atty Gen, No 4047, p 124 (July 9, 1975) 1975 WL 22344.

The Lancaster County homestead exemption for disabled veterans was left unaltered by the general Homestead Exemption Act. 1974‑75 Op Atty Gen, No 4032, p 104 (May 29, 1975) 1975 WL 22329.

A trustee vested with legal title to property is not entitled to the homestead exemption notwithstanding that the property is held for the use of a person over sixty‑five years for such person’s life. 1974‑75 Op Atty Gen, No 3989, p 63 (March 6, 1975) 1975 WL 22287.

Proof of blindness as defined by Act 958 of 1966 is a condition precedent for the homestead exemption. The proof may be by the statement of the South Carolina Commission for the Blind or the statement of an approved ophthalmologist accompanied by evidence of his approval. 1974‑75 Op Atty Gen, No 3941, p 20 (January 23, 1975) 1975 WL 22239.

**SECTION 12‑37‑295.** Payment of taxes not condition to qualify for exemption.

Notwithstanding any other provision of law, the payment of real property taxes on or before March fifteenth following the year for which homestead tax exemption is claimed shall not be a condition to qualify for the exemption.

HISTORY: 1980 Act No. 333, Section 1.

CROSS REFERENCES

Provisions requiring payment of tax by specified date as condition for continued eligibility for exemption, see Sections 12‑37‑250, 12‑37‑255, 12‑37‑290.

Library References

Taxation 2317.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 287, 291 to 292.

**SECTION 12‑37‑450.** Business inventory tax exemption; reimbursement of counties and municipalities.

(A) A county and municipality must be reimbursed for the revenue lost as a result of the business inventory tax exemption based on the 1987 tax year millage and 1987 tax year assessed value of inventories in the county and municipality. The reimbursement amount must be redistributed proportionately to the separate millages levied by the political subdivision within the county for the current tax year millage. There is credited annually, as provided in Section 11‑11‑150, to the Trust Fund for Tax Relief whatever amount is necessary to reimburse fully all counties and municipalities the required amount. The department shall make remittances of this reimbursement to a county and municipality in four equal payments.

(B) Notwithstanding another provision of law, business inventory exempted from property taxation in the manner provided in this section is considered taxable property in an amount equal to the 1987 tax year assessed valuation for purposes of bonded indebtedness pursuant to Sections 14 and 15, Article X of the Constitution of this State and for purposes of computing the “index of taxpaying ability” pursuant to item (3) of Section 59‑20‑20.

(C) If a portion of a special purpose district is annexed to a municipality and its service functions in the annexed area are assumed by the municipality, the total amount remitted to the county and municipality pursuant to this section may not exceed the total amount which would be remitted to the two entities separately. However, the assessed valuation and special purpose district tax levy for tax year 1987 with respect to the annexed portion of the special purpose district must be taken into consideration in determining the proportionate share of the total allocation due to the county and the municipality.

HISTORY: 1984 Act No. 512, Part II, Section 16(3); 1986 Act No. 540, Part II, Sections 3A‑3C; 1993 Act No. 137, Section 1; 1993 Act No. 164, Part II, Section 57A; 1995 Act No. 145, Part II, Section 102A; 1998 Act No. 419, Part II, Section 29D; 2006 Act No. 386, Section 55.J, eff June 14, 2006; 2015 Act No. 87 (S.379), Section 6, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 6, in (A), rewrote the second sentence.

CROSS REFERENCES

The Education Finance Act of 1977 appears as Sections 59‑20‑10 et seq.

Library References

Taxation 2309.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 277 to 280, 316 to 318, 393, 397.

Attorney General’s Opinions

Discussion of reimbursement when the political subdivision ceases to exist and is not annexed. S.C. Op.Atty.Gen. (March 23, 1998) 1998 WL 196485.

No tax return is required for the assessment and taxation of merchant’s inventory for the 1988 and subsequent tax years. The merchant, however, must file an annual application for exemption and furnish the information required therefor. If the exemption is not filed, the inventory is taxable. 1987 Op Atty Gen, No. 87‑8, p 42 (January 26, 1987) 1987 WL 245417.

ARTICLE 5

Liability for Taxes; Returns

**SECTION 12‑37‑610.** Persons liable for taxes and assessments on real property.

Each person is liable to pay taxes and assessments on the real property that, as of December thirty‑first of the year preceding the tax year, he owns in fee, for life, or as trustee, as recorded in the public records for deeds of the county in which the property is located, or on the real property that, as of December thirty‑first of the year preceding the tax year, he has care of as guardian, executor, or committee or may have the care of as guardian, executor, trustee, or committee.

HISTORY: 1962 Code Section 65‑1611; 1952 Code Section 65‑1611; 1942 Code Section 2567; 1932 Code Section 2567; Civ. C. ‘22 Section 336; Civ. C. ‘12 Section 288; Civ. C. ‘02 Section 261; G. S. 165; R. S. 218; 1882 (17) 983; 1996 Act No. 431, Section 21; 2000 Act No. 399, Section 3(X)(2), eff January 1, 2001.

CROSS REFERENCES

Authority for municipalities to provide by ordinance procedure for collection of delinquent real and personal property taxes, see Section 5‑7‑300.

Listing property of other persons for taxation, see Section 12‑37‑740.

Library References

Taxation 2186.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 95, 103, 109 to 111, 130 to 144, 446 to 450.

RESEARCH REFERENCES

ALR Library

124 ALR 1267 , Federal Government or Agencies of Federal Government as Subject to Payment of Tax or Fee Imposed Upon, or For, Recording or Filing Instrument.

Attorney General’s Opinions

A court will likely find a current property owner has standing to challenge the property tax assessment on his property. S.C. Op.Atty.Gen. (March 18, 2014) 2014 WL 1398580.

The person owning property as of December 31 of the previous year is responsible for the current year tax assessment of that property, has the authority to appeal an assessment, and would receive any tax refund based on an incorrect assessment. S.C. Op.Atty.Gen. (July 20, 2011) 2011 WL 3346432.

The defaulting taxpayer, not the purchaser of property sold at a distress sale, is responsible for property taxes during the redemption period following the sale. S.C. Op.Atty.Gen. (Nov. 23, 2010) 2010 WL 4982623.

Defaulting taxpayer is responsible for payment of current taxes on property during 18 month redemption period. No statutory authority to recover taxes from owner paid by purchaser during redemption period. Purchaser of property sold for nonpayment of ad valorem taxes receives title at end of redemption period subject to lien for unpaid taxes upon property. 1984 Op Atty Gen, No. 84‑27, p. 67 (March 8, 1984) 1984 WL 159834.

When property that is owned by the Farmers Home Administration and exempted from taxation because of such ownership is conveyed by the Farmers Home Administration subsequent to the taxing date, there is no authority to tax the property to the subsequent purchaser or owner or attach a lien for the years that the property is exempt. 1978 Op Atty Gen, No 78‑184, p 211 (November 3, 1978) 1978 WL 22652.

In the absence of a contractual condition, improvements made by a lessee become the property of the lessor and taxed as realty. 1978 Op Atty Gen, No 78‑130, p 166 (July 5, 1978) 1978 WL 22598.

An instrument that grants a right to use real property (time sharing) and a fee simple in remainder (after a number of years) does not subject the owner of the right to use to a tax, the same being upon the owner of the fee. 1975‑76 Op Atty Gen, No 4397, p 237 (July 19, 1976) 1976 WL 23015.

Former Code 1962 Section 65‑1611 recognized the legal distinction between the ownership of a fee simple estate and a life estate. 1971‑72 Op Atty Gen, No 3247, p 32 (January 17, 1972) 1972 WL 20394.

Property over which an easement or right‑of‑way has been granted is taxable to the owner of the fee or of the life estate. However, the fair market value of such property must be determined by a consideration of the effect of the easement or right‑of‑way thereon. 1971‑72 Op Atty Gen, No 3303, p 120 (April 27, 1972) 1972 WL 20443.

Property subject to easement. Where an easement is granted a utility company, and the fee simple title retained by the grantor, the property subject to the easement is taxed to the grantor. 1970‑71 Op Atty Gen, No 3145, p 106 (July 7, 1971) 1971 WL 17519.

Where one owns a life tenancy in land, the land should be listed on the tax records in the name of the life tenant and taxed to such life tenant. 1970‑71 Op Atty Gen, No 3084, p 27 (February 9, 1971) 1971 WL 17459.

Improvements made to buildings on leased land should be considered a part of the building and assessed to the lessor in the event the lessor is the owner of the building and to the lessee in the event the lessee is the owner of the building. 1969‑70 Op Atty Gen, No 2857, p 93 (March 13, 1970) 1970 WL 12146.

Where an agreement is entered into to convey property at an agreed consideration to be paid in annual installments with possession and equitable title in the purchaser, with legal title retained by the seller as security for payment of the sales price, the owner of such property for ad valorem tax purposes is the purchaser. 1969‑70 Op Atty Gen, No 2849, p 85 (March 5, 1970) 1970 WL 17045.

A building constructed by a lessee that may be removed from the leased property is taxable to the lessee. 1968‑69 Op Atty Gen, No 2687, p 120 (June 11, 1969) 1969 WL 10687.

Valuation of leased land. A lease of real property and the consideration provided therein are elements to be considered in fixing the value of the land so leased for ad valorem tax purposes. 1968‑69 Op Atty Gen, No 2610, p 4 (January 7, 1969) 1969 WL 10614.

Where land is held under a life estate, the interest of the life tenant is to be valued for ad valorem taxation. 1968‑69 Op Atty Gen, No 2610, p 4 (January 7, 1969) 1969 WL 10614.

Land leased for a term must be returned by the owner and is taxable to the same by the provisions of this section [Code 1962 Section 65‑1611]. Furthermore, such land is within the exemption provided for in Code 1962 Section 65‑1525 when it is taxed as part of the manufacturing establishment. 1967‑68 Op Atty Gen, No 2511, p 197 (September 19, 1968) 1968 WL 8907..

The exemption afforded a new manufacturing establishment could be claimed by the owner of the manufacturing establishment whether the same is or is not operated by another under a lease. 1967‑68 Op Atty Gen, No 2507, p 189 (September 11, 1968) 1968 WL 8903.

Where a county conveys land to a manufacturer who constructs a manufacturing establishment thereon, there would be no prohibition against the exemption of such new manufacturing establishment from the ad valorem tax. 1967‑68 Op Atty Gen, No 2507, p 189 (September 11, 1968) 1968 WL 8903.

A county auditor is not required to accept the grantee in a quitclaim deed as the true owner of property for ad valorem tax purposes when the records fail to disclose or establish any interest in the said property that was conveyed by the grantor. 1966‑67 Op Atty Gen, No 2379, p 228 (December 6, 1967) 1967 WL 8687.

An estate for life is the subject of ad valorem taxation and can be executed upon and sold for nonpayment of such taxation. 1966‑67 Op Atty Gen, No 2287, p 107 (June 14, 1967) 1967 WL 8597.

Only the interest of the life tenant can be seized and sold for nonpayment of the taxes. When the estate created by the life tenancy ceases, the remainderman cannot be held liable for the tax, nor is such remainderman interest subject to the lien created by the failure of the life tenant to pay the tax. 1966‑67 Op Atty Gen, No 2287, p 107 (June 14, 1967) 1967 WL 8597.

NOTES OF DECISIONS

In general 1

Life tenants and remaindermen 3

Person 2

1. In general

Property tax liability was determined as of December 31st of the preceding year, regardless of a subsequent transfer to an exempt corporation or when the tax was actually levied, and therefore non‑profit corporation’s purchase of property in March of the subsequent year did not render property exempt from taxation for the year in which property was purchased. Hampton Friends of Arts v. South Carolina Dept. of Revenue (S.C. 2013) 401 S.C. 372, 737 S.E.2d 628. Taxation 2443

2. Person

The word “person” contained in this section [Code 1962 Section 65‑1611] includes firms, companies, associations and corporations. City of Columbia v. Tindal (S.C. 1895) 43 S.C. 547, 22 S.E. 341.

3. Life tenants and remaindermen

The duty is on the life tenant to pay taxes, and the interests of remaindermen are not affected by reason of the failure of the life tenant so to do, and no taxes may be assessed against the interests of remaindermen during the existence of the life estate, the reason being that the legislature supposed the value of the life estate would be sufficient to satisfy the taxes and it was the intention under our statute to protect the rights of remaindermen and not allow them to be sacrificed where no necessity therefor exists. Bolt v Sullivan, 173 SC 24, 174 SE 491 (1934). Campbell v Williams, 171 SC 279, 172 SE 142 (1933). Stamper v Avant, 233 SC 359, 104 SE2d 565 (1958).

A life tenant is required to assess the land in his possession as such, and upon his default in paying taxes only his interest in the land can be sold under execution against him. Bolt v Sullivan, 173 SC 24, 174 SE 491 (1934). Stamper v Avant, 233 SC 359, 104 SE2d 565 (1958).

This section [Code 1962 Section 65‑1611] does not authorize the assessment of the property of remaindermen, because the legislature no doubt supposed that the value of the life estate would be sufficient to satisfy the taxes, and it was the intent to protect the rights of remaindermen and not allow them to be sacrificed where no necessity therefor exists. Taylor v Strauss, 95 SC 295, 78 SE 883 (1913). Stamper v Avant, 233 SC 359, 104 SE2d 565 (1958).

A life tenant is legally liable for the taxes on the property during the continuance of the life estate. Taylor v. Jennings (S.C. 1958) 233 S.C. 600, 106 S.E.2d 391.

**SECTION 12‑37‑620.** Certain leasehold estates taxed until end of term; lease or contract must be recorded and contain certain information; sale of property for taxes.

All leasehold estates hereafter established and held on a term of ninety‑nine years or more or for a term certain renewable at the option of the lessee for an additional term of ninety‑nine years or more shall be valued at the full value of the land and taxed to the lessee until the end of the term. Provided, however, that the lease or contract must be recorded with the clerk of court or register of mesne conveyance of the county where the property is located. The lease must contain the name and resident address of the lessee, the length of the lease and the real consideration therefor, and the derivation of title to the lessor and his resident address. Provided, further, if such property should be sold for taxes, only the leasehold interest can be sold and not the fee.

HISTORY: 1962 Code Section 65‑1612; 1952 Code Section 65‑1612; 1942 Code Section 2697; 1932 Code Section 2697; Civ. C. ‘22 Section 432; Civ. C. ‘12 Section 380; Civ. C. ‘02 Section 338; G. S. 220; R. S. 271; 1881 (17) 1006; 1971 (57) 999.

Library References

Taxation 2188, 2519, 2918, 3063.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 95, 103, 109 to 111, 130, 132 to 135, 446, 582, 594, 1237 to 1238, 1472 to 1479.

**SECTION 12‑37‑670.** Listing new structures for taxation; due date of additional property taxes.

(A) No new structure must be listed or assessed for property tax until it is completed and fit for the use for which it is intended.

(B)(1) A county governing body by ordinance may provide that previously untaxed improvements to real property must be listed for taxation with the county assessor of the county in which it is located by the first day of the next calendar quarter after a certificate of occupancy is issued for the structure. A new structure must not be listed or assessed until it is completed and fit for the use for which it is intended, as evidenced by the issuance of the certificate of occupancy or the structure actually is occupied if no certificate is issued.

(2) When an ordinance allowed pursuant to this subsection is enacted, additional property tax attributable to improvements listed with the county assessor accrues beginning on the listing date and is due and payable when taxes are due on the property for that property tax year. This additional tax is due and payable without regard to any tax receipt issued for that parcel for the tax year that does not reflect the value of the improvements.

(3) If a county governing body elects by ordinance to impose the provisions of this subsection, this election also is binding on all municipalities within the county imposing ad valorem property taxes.

HISTORY: 1962 Code Section 65‑1620; 1952 Code Section 65‑1620; 1942 Code Section 2696; 1932 Code Section 2696; Civ. C. ‘22 Section 431; Civ. C. ‘12 Section 379; Civ. C. ‘02 Section 337; G. S. 219; R. S. 270; 1881 (17) 1006; 1926 (34) 981; 1962 (52) 2187; 2006 Act No. 388, Pt V, Section 2.A, eff June 10, 2006; 2007 Act No. 57, Section 6, eff June 6, 2007.

Library References

Taxation 2464.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544.

Attorney General’s Opinions

Because Section 12‑37‑670 continues to provide counties with the ability to elect an alternative date to begin taxing new structures, a court could find this provision unconstitutional. S.C. Op.Atty.Gen. (Feb. 24, 2010) 2010 WL 928446.

A certificate of occupancy, while not required to be used, may be used as evidence that a structure is complete and fit for its intended use. S.C. Op.Atty.Gen. (Feb. 26, 2009) 2009 WL 580548.

Discussion of the constitutionality of the 2006 amendments to section 12‑37‑670. S.C. Op.Atty.Gen. (Oct. 27, 2006) 2006 WL 3199994.

In the absence of a contractual condition, improvements made by a lessee become the property of the lessor and taxed as realty. 1978 Op Atty Gen, No 78‑130, p 166 (July 5, 1978) July 5, 1978.

A building which has been completed and which is ready for use is taxable although the manufacturing operation to be carried on therein has not begun. 1975‑76 Op Atty Gen, No 4301, p 120 (March 17, 1976) 1976 WL 22921.

Completion of building constructed by contractor for sale. Where a building is completed by a contractor who constructed the same for sale and the same is otherwise complete on the tax date except for fixtures or minor additions, for example, bathroom fixtures, sanding or carpeting of floors or installation of some doors, such building is deemed to be complete for the use intended and should be listed and returned for ad valorem taxation. 1969‑70 Op Atty Gen, No 2854, p 90 (March 12, 1970) 1970 WL 12143.

New structures are subject to taxation when complete and fit on the tax date for the use intended by the owner thereof. 1969‑70 Op Atty Gen, No 2805, p 11 (December 2, 1969) 1969 WL 10786.

A building constructed by a lessee that may be removed from the leased property is taxable to the lessee. 1968‑69 Op Atty Gen, No 2687, p 120 (June 11, 1969) 1969 WL 10687.

Completed stores in shopping mall where other stores are incomplete. Completed stores in a shopping mall which is owned by a corporation must be listed and assessed for ad valorem taxation even though other stores in the mall remain incomplete. 1968‑69 Op Atty Gen, No 2641, p 50 (1969 WL 10687) 1969 WL 10687.

Return of new structures for taxation. A new structure must be completed for the use intended on or before December thirty‑first next preceding the taxable year to be subject to taxation and the owner must return the same for taxation between January first and March first of the taxable year. 1966‑67 Op Atty Gen, No 2237, p 39 (March 8, 1967) 1967 WL 8553.

Municipality has no authority to value structure not returned to or valued by county auditor. A municipality has no constitutional or statutory authority to place a value on new structures or improvements to realty when the same are not returned to the county auditor or when the same have not been valued by the county auditor. 1965‑66 Op Atty Gen, No 2164, p 295 (September 27, 1966) 1966 WL 8613.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

Taxation statute requiring landowners in Charlestown County to return for taxes the improvements on their land on the first day of the month following occupancy and to pay taxes thereon for a fractional part of the year, while other landowners in South Carolina under similar circumstances are not required to return improvements and pay taxes on them until the following calendar year, is violative of the state constitution, which provides that no special law shall be enacted where a general law can be made applicable, and therefore the statute is not constitutional. Thorne v. Seabrook (S.C. 1975) 264 S.C. 503, 216 S.E.2d 177. Statutes 1682; Taxation 2089

**SECTION 12‑37‑710.** Return and assessment of personal property.

Every person shall annually list for taxation the following personal property, to wit:

(1) all the tangible personal property in the State owned or controlled by him;

(2) all the tangible property owned by him or by any other resident of this State and under his control which may be temporarily out of the State but is intended to be brought into the State;

(3) all tangible personal property owned or controlled by him which may have been sent out of the State for sale and not yet sold; and

(4) all the moneys, credits, investments in bonds, stocks, joint‑stock companies or otherwise, owned or controlled by him, whether in or out of this State.

HISTORY: 1962 Code Section 65‑1624; 1952 Code Section 65‑1624; 1942 Code Section 2604; 1932 Code Section 2604; Civ. C. ‘22 Section 344; Civ. C. ‘12 Section 296; Civ. C. ‘02 Section 268; G. S. 173; R. S. 224, 225; 2015 Act No. 87 (S.379), Section 7, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 7, in the introductory paragraph, substituted “Every person shall” for “Every person of full age and of sound mind shall”.

CROSS REFERENCES

Exemption from returns for certain personal property required to be registered with state agencies, see Section 12‑37‑2710.

Requirement that property tax return be filed prior to application for motor vehicle license, see Section 12‑37‑2630.

Library References

Taxation 2462.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549.

Attorney General’s Opinions

Discussion of determination of who the “owner” is of leased assets for purposes of filing and paying personal property taxes. S.C. Op.Atty.Gen. (Aug. 16, 2006) 2006 WL 2593073.

Interest in personal property of person who is not non‑resident person in military service is subject to ad valorem taxation notwithstanding that interest in such property is also jointly owned by non‑resident person who is in military service. 1985 Op Atty Gen, No 85‑92, p 258 (August 27, 1985) 1985 WL 166062.

There is no statutory authority to apportion property taxes during a tax year and to refund or give credit because of such. 1982 Op Atty Gen, No 82‑46, p 53 (June 29, 1982) 1982 WL 155015.

A physician is liable for the ad valorem tax on all tangible personal property possessed and used by him in his practice as of December 31 next preceding the taxable year. 1980 Op Atty Gen, No 80‑16, p 39 (February 4, 1980) 1980 WL 81900.

The owner of personal property on December 31, 1979 is required to make a return to the county auditor listing all property owned by him on that date notwithstanding the fact that some property is sold by him in January 1980. 1980 Op Atty Gen, No 80‑15, p 38 (February 4, 1980) 1980 WL 81899.

A charter boat having an actual situs outside South Carolina is not subject to taxation by the political subdivision of the State because the owner resides therein and the vessel is registered at a port within the subdivision. 1979 Op Atty Gen, No 79‑25, p 35 (February 9, 1979) 1979 WL 29031.

Property of nonresident may acquire tax situs in State. Personal property may acquire a tax situs in South Carolina for ad valorem taxation notwithstanding the fact that the owner thereof may be a nonresident. 1969‑70 Op Atty Gen, No 2805, p 11 (December 2, 1969) 1969 WL 10786.

Property leased within the State by an out‑of‑State leasing corporation is subject to property tax and the exemption of the lessee from taxes does not affect the liability of the lessor for the property taxes. 1967‑68 Op Atty Gen, No 2515, p 202 (September 30, 1968) 1968 WL 8911.

Exemption afforded new manufacturing establishment could be claimed by owner of the manufacturing establishment whether the same is or is not operated by another under a lease. 1967‑68 Op Atty Gen, No 2507, p 189 (September 11, 1968) 1968 WL 8903.

Where a county conveys land to a manufacturer who constructs a manufacturing establishment thereon, there would be no prohibition against the exemption of such new manufacturing establishment from the ad valorem tax. 1967‑68 Op Atty Gen, No 2507, p 189 (September 11, 1968) 1968 WL 8903.

NOTES OF DECISIONS

Valuation 1

1. Valuation

Fiscal officers may be compelled by mandamus to assess property liable for taxes, as this is a mere ministerial duty, but they cannot be required to place a particular value thereon, as this would be an interference with their discretion. Fuller v. Payne (S.C. 1914) 96 S.C. 471, 81 S.E. 176. Mandamus 117

**SECTION 12‑37‑712.** Access to marina records and premises.

A marina must provide immediate access to its business records and premises to city, county, and state tax authority employees for the purpose of making a property tax assessment. For the purposes of this section, “marina” means a facility that provides mooring or dry storage for watercraft on a leased or rental basis, and “business records” means only the name and billing address of the person leasing or renting space for a boat in a marina, as well as the make, model, and year, if available.

HISTORY: 2005 Act No. 145, Section 55, eff June 7, 2005; 2006 Act No. 386, Section 45, eff June 14, 2006.

Library References

Taxation 2475.

Westlaw Topic No. 371.

C.J.S. Taxation Section 551.

**SECTION 12‑37‑714.** Boats with situs in State; boat or motor under contract for repairs.

In addition to any other provisions of law subjecting boats and boat motors to property tax in this State:

(1) A boat, including its motor if separately taxed, used in interstate commerce having a tax situs in this State and at least one other state is subject to property tax in this State. The value of such a boat must be determined based on the fair market value of the boat multiplied by a fraction representing the number of days present in this State. The fraction is determined by dividing the number of days the boat was present in this State by three hundred sixty‑five days. A boat used in interstate commerce must be physically present in this State for thirty days in the aggregate in a property tax year to become subject to ad valorem taxation.

(2) A boat, including its motor if the motor is separately taxed, which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or for ninety days in the aggregate in a property tax year. Upon an ordinance passed by the local governing body, a county may subject a boat, including its motor if the motor is separately taxed, to property tax if it is within this State for ninety days in the aggregate, regardless of the number of consecutive days. Also, upon an ordinance passed by the local governing body, a county may increase the number of days in the aggregate a boat, including its motor if the motor is taxed separately, must be in this State to be subject to property tax to one hundred eighty days in a property tax year, regardless of the number of consecutive days. Upon written request by a tax official, the owner must provide documentation or logs relating to the whereabouts of the boat in question. Failure to produce requested documents creates a rebuttable presumption that the boat in question is taxable within this State.

(3) When a boat, or motor if separately taxed, is subject to a written contract for repairs and located in a marine repair facility in this State, the time periods provided pursuant to items (1) and (2) of this section are tolled.

HISTORY: 2006 Act No. 386, Section 34.A, eff June 14, 2006; 2006 Act No. 386, Section 39.B, eff June 14, 2006 applicable for property tax years beginning after 2005; 2007 Act No. 116, Section 66.A, eff June 28, 2007, applicable for tax years beginning after 2007; 2008 Act No. 313, Section 9, eff June 12, 2008; 2010 Act No. 279, Section 2, eff June 16, 2010.

Library References

Taxation 2214, 2215.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 150, 160 to 161.

Attorney General’s Opinions

A boat that is not currently taxed in South Carolina and that is not used exclusively in interstate commerce, becomes taxable if it is present in South Carolina for sixty consecutive days or for ninety days in the aggregate in a property tax year, or by local ordinance for one‑hundred‑eighty days in the aggregate in a property tax year, regardless of how the boat is titled. S.C. Op.Atty.Gen. (April 8, 2011) 2011 WL 1740738.

**SECTION 12‑37‑715.** Frequency of ad valorem taxation on personal property; exception.

Notwithstanding any other provision of law, no personal property may be taxed for ad valorem purposes more than once in any tax year, except as provided for by the provisions of Section 56‑3‑210.

HISTORY: 1982 Act No. 287, Section 2; 2015 Act No. 87 (S.379), Section 8, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 8, substituted “provision of law” for “provisions of law”, and added “except as provided for by the provisions of Section 56‑3‑210”.

Library References

Taxation 2443.

Westlaw Topic No. 371.

C.J.S. Taxation Section 539.

**SECTION 12‑37‑717.** Repealed.

HISTORY: Former Section, titled Surcharge on heavy equipment rental contract, had the following history: 2006 Act No. 386, Section 34.B, eff June 14, 2006. Repealed by 2016 Act No. 224, Section 3, eff January 1, 2017.

**SECTION 12‑37‑720.** Persons who shall return property of ward, minor child having no guardian, wife, lessee, absent, unknown or deceased person, corporation, partnership or other firm, and property held in trust or by receiver or public officer.

The personal property of every ward shall be listed by his guardian; of every minor child, having no other guardian, by the father if living, if the father be dead by the mother if living and if the mother be dead or remarried by the person having it in charge; of every wife, by the husband, if living and sane and the parties are residing together and if the husband be dead, is insane or is not living with his wife, by the wife; of every person for whose benefit property is held in trust, by the trustee; of every deceased person, by the executor or administrator; of those whose property or assets are in the hands of receivers, by such receivers; of every firm, company, body politic or corporate, by the president or principal accounting officer, partner or agent thereof; of all persons in the hands or custody of any public officer or appointee of a court, by such officer or appointee; of those absent or unknown, by their agent or the person having such property in charge; of lessees of real property, by such lessees.

HISTORY: 1962 Code Section 65‑1625; 1952 Code Section 65‑1625; 1942 Code Section 2604; 1932 Code Section 2604; Civ. C. ‘22 Section 344; Civ. C. ‘12 Section 296; Civ. C. ‘02 Section 268; G. S. 173; R. S. 224, 225.

Library References

Taxation 2462.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549.

**SECTION 12‑37‑730.** Persons liable for taxes on personal property held in trust or charge.

All executors, administrators, guardians, trustees, receivers, officers, husbands, fathers, mothers, agents or factors shall be personally liable for the taxes on all personal property which they are required, respectively, to list for taxation by the provisions of this chapter and which was in their possession at the time when the return thereof for taxation shall have been made by themselves or the county auditors and may retain in their hands a sufficient amount of the property, or proceeds thereof, to pay such taxes for the entire year. And the county treasurer may collect such taxes by any and all the means provided by this chapter, either of the principal or beneficiary or of the person so acting as executor, administrator, guardian, trustee, husband, father, mother, agent or factor, receiver or officer.

HISTORY: 1962 Code Section 65‑1626; 1952 Code Section 65‑1626; 1942 Code Section 2568; 1932 Code Section 2568; Civ. C. ‘22 Section 337; Civ. C. ‘12 Section 289; Civ. C. ‘02 Section 262; G. S. 166; R. S. 219; 1881 (17) 983.

Library References

Taxation 2191, 2192, 2194.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 103, 130, 139 to 141, 446 to 448, 450.

**SECTION 12‑37‑735.** Transfer of personal property titled by state or federal agencies; proration of taxes; exceptions.

(A) When ownership of personal property required to be titled by a state or federal agency, not including motor vehicles taxed pursuant to Article 21 of this chapter or units of manufactured housing, is transferred, the transferor’s property tax year for the property ends on the transfer date and a new property tax year begins for the transferee. When the actual transfer date is not the first day of the month, for purposes of this section, the transfer date is deemed to be the first day of the next month. The auditor shall prepare prorated tax bills for each partial tax year and the transferor and transferee are liable only for that tax attributable to their respective periods of ownership and the lien for payment of property taxes is enforceable only for the collection of the taxes due from the transferee.

(B) The provisions of this section apply only if the transferor files with the appropriate county auditor before the first penalty date for property taxes a form designed by the Department of Revenue, signed by the transferee in which the transferor assumes personal liability for his share of the taxes, and which provides that information necessary to prorate and bill the taxes. These prorated tax bills are due and payable as provided by law to the treasurer of the county where the tax would be due without regard to this section. The appropriate county auditor is the auditor of the county which is the situs of the property, or if the transferor is a resident individual, the auditor of the county of the transferor’s domicile.

HISTORY: 1998 Act No. 338, Section 1.

Library References

Taxation 2443.

Westlaw Topic No. 371.

C.J.S. Taxation Section 539.

**SECTION 12‑37‑740.** Property of others shall be listed and assessed separately; responsibility for payment; retention of proceeds sufficient to pay taxes.

All persons required by law to list property for others shall list it separately from their own and in the name of the owner thereof but shall be personally responsible for the taxes thereon for the year in which they list it and may retain so much thereof, or the proceeds of the sale thereof, in their own hands as will be sufficient to pay such taxes; provided, that:

(1) all lands shall be listed and assessed as the property of the person having the legal title to, and the right of possession of, the land at the time of listing and assessment and, in case of persons having possession of lands for life, in the name of the life tenant;

(2) in the case of estates administered, the property shall be listed and assessed as the property of “the estate of” the person deceased;

(3) in case of a trust, the property shall be listed and assessed as the property of the trustee, styled as trustee, committee or guardian, as the case may be; and

(4) in case of bankruptcy, the property shall be listed and assessed as the property of the bankrupt.

HISTORY: 1962 Code Section 67‑1627; 1952 Code Section 65‑1627; 1942 Code Section 2605; 1932 Code Section 2605; Civ. C. ‘22 Section 345; Civ. C. ‘12 Section 297; Civ. C. ‘02 Section 269; G. S. 174; R. S. 226; 1881 (17) 987.

Library References

Taxation 2466.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544, 546.

NOTES OF DECISIONS

In general 1

Estates 3

Life tenants and remaindermen 4

Owner 2

Validity of tax sale 5

1. In general

The term “the estate of” is not synonymous with or equivalent to life tenants or remaindermen so as to designate the persons who hold title to the land. The words “life tenants” connote living persons who have the legal title to and the right of possession of the land. Taylor v. Jennings (S.C. 1958) 233 S.C. 600, 106 S.E.2d 391.

The term “the estate of” is not synonymous with or equivalent to the word “heirs” so as to designate a person or persons who hold title to land. The word “heirs” connotes living persons who may take as distributees at law, whereas the term, “the estate of” a deceased person is merely indicative of the subject matter which the heirs may take by inheritance. Carter v. Wroten (S.C. 1938) 187 S.C. 432, 198 S.E. 13, 119 A.L.R. 379. Taxation 2583

Return made by agent as “unknown” renders proceedings void. Hudson v. Schumpert (S.C. 1908) 80 S.C. 23, 61 S.E. 104.

2. Owner

Manner of listing property is evidence of ownership. In view of the fact that this section [Code 1962 Section 65‑1627] requires all lands to be assessed in the name of the person “having the legal title and right of possession,” the fact that the return for taxation of certain lands is made in the name of one of the parties to a partition suit furnishes strong evidence that the person in whose name such property is so listed, has the legal title thereto. Campbell v. Stewart (S.C. 1915) 100 S.C. 144, 84 S.E. 415.

3. Estates

Where there has been no administration of the estate of a person dying intestate, the land must be assessed in the name of the real owner, that is, the person or persons having the legal title to and the right of possession of it. Fischer v. Bennett (S.C. 1943) 202 S.C. 534, 25 S.E.2d 746. Carter v. Wroten (S.C. 1938) 187 S.C. 432, 198 S.E. 13, 119 A.L.R. 379.

Where there was no administration of the estate of a deceased owner of realty, listing, assessment, and sale of the realty for taxes as the property of the estate of the deceased, was invalid under statute providing that all realty should be listed and assessed as property of owner of legal title and providing that, in cases of estates administered, property should be listed and assessed as the property of ‘the estate of’ the deceased. Code 1942, S 2605. Vallentine v Robinson, 188 SC 194, 198 SE 197 (1938).

Where there was no administration on the estate of a decedent the sale of the property for delinquent taxes in the name of his “estate” was void. Dunham v. Davis (S.C. 1956) 229 S.C. 29, 91 S.E.2d 716. Taxation 3162(3)

The property of those alone, whose names are on the tax lists, is subject to sale for nonpayment of taxes, and the word “heirs” of a deceased person in the case of estates not administered upon is a sufficient naming but the phrase, “estate of” does not refer, by any reasonable intendment, to a person or persons, and is permissible only in the case of estates administered upon as provided by this section [Code 1962 Section 65‑1627]. Carter v. Wroten (S.C. 1938) 187 S.C. 432, 198 S.E. 13, 119 A.L.R. 379.

Where there has been no administration, a good tax title can be made to land, assessed, levied on, and sold after the death of the owner in the name of the “heirs” of the deceased owner, without mentioning the name of each of the heirs. Koth v. Pallachucola Club (S.C. 1908) 79 S.C. 514, 61 S.E. 77.

The second subdivision in this section [former Code 1962 Section 65‑1627] constituted an exception to the general rule laid down in the first part of the section. The exception has no application where there has been no administration of the estate and where the property has been listed as the property of the heirs of the deceased. Koth v. Pallachucola Club (S.C. 1908) 79 S.C. 514, 61 S.E. 77. Taxation 2483; Taxation 2583

Where there has been an administration on the estate in question, then the exception contained in this section [Code 1962 Section 65‑1627] applies, and for the tax title to be valid, the provisions of the proviso must have been complied with. Pollitzer v. Beinkempen (S.C. 1907) 76 S.C. 517, 57 S.E. 475.

4. Life tenants and remaindermen

Under this and related statutes of this State it is well settled that the duty is on the life tenant to pay the taxes and that the interests of remaindermen are not affected by reason of the failure of the life tenant so to do; it is also well settled that no taxes may be assessed against the interests of remaindermen during the existence of the life estate. Campbell v Williams, 171 SC 279, 172 SE 142 (1933). Taylor v Strauss, 95 SC 295, 78 SE 883 (1913).

This section [Code 1962 Section 65‑1627] has been construed to extend the lien for taxes levied and assessed during a life tenancy only to the life estate. U.S. v. 15,883.55 Acres of Land, Situate in Spartanburg County, S.C., 1942, 45 F.Supp. 783.

5. Validity of tax sale

A tax sale is invalid when any part of the taxes were assessed under the wrong name. Taylor v. Jennings (S.C. 1958) 233 S.C. 600, 106 S.E.2d 391.

Testator devised land to A for life, remainder to B. While the estate was still under administration, the land was listed, assessed, levied upon, and finally sold for nonpayment of taxes under the name “Estate of Testator.” In an action by the remainderman following the death of the life tenant, the court held the tax deed was ineffective to divest the remainderman of his interest in the land since the life tenant was the owner of the land at the time of sale and tax sale during the life of the life tenant does not affect the interest of the remainderman. Taylor v. Jennings (S.C. 1958) 233 S.C. 600, 106 S.E.2d 391.

The sale of property for nonpayment of taxes during the life of the life tenant did not affect the interest of the remaindermen notwithstanding the sale was made under the name of “the estate of decedent.” Stamper v. Avant (S.C. 1958) 233 S.C. 359, 104 S.E.2d 565. Taxation 3063

**SECTION 12‑37‑750.** Omitted or false returns; notice to taxpayer; assessment and collection of omitted taxes.

When a taxpayer has omitted or neglected to make a return of his property for taxation or has made a false return for or in any year, including business personal returns filed with the Department of Revenue, and the county auditor of the county in which the return should have been made is informed of that fact within the period of time within which the State may bring suit for the collection of the taxes, the auditor shall notify the defaulting taxpayer, or, if he is dead, his personal or legal representative, to appear before him at his office at a time set in the notice and shall assess the property not returned as prescribed in Sections 12‑37‑760 to 12‑37‑780. If notice must be given to a nonresident, the notice must be served by publication in some newspaper and by mailing a copy of it to the nonresident as prescribed for service of nonresidents by Title 15, and taxes must be assessed and collected as provided by statute.

HISTORY: 1962 Code Section 65‑1631; 1952 Code Section 65‑1631; 1942 Code Section 2834; 1932 Code Section 2863; Civ. C. ‘22 Section 529; Civ. C. ‘12 Section 478; Civ. C. ‘02 Section 430; 1899 (23) 80; 1905 (24) 873; 1911 (27) 229; 1997 Act No. 106, Section 2.

CROSS REFERENCES

Civil penalties and damages applicable to certain return or statement filings, see Section 12‑54‑43.

Criminal penalties applicable to certain return or statement filings, see Section 12‑54‑44.

Library References

Taxation 2469.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544, 547 to 549.

Attorney General’s Opinions

A county auditor may examine a person regarding personal property to be returned, or property that is incorrectly returned, any documents and records relating to information required on the return by regulation of the South Carolina Tax Commission. 1983 Op Atty Gen, No 83‑73, p. 115 (September 21, 1983) 1983 WL 142742.

Only auditor may assess for any year except current one. Neither boards of assessors, boards of equalization, nor any other board or person, except the county auditor, is authorized to assess property for taxation for any year except the current one. 1964‑65 Op Atty Gen, No 1888, p 167 (July 26, 1965) 1965 WL 8045.

**SECTION 12‑37‑760.** Auditor shall make return of personal property when individual does not; examination under oath; investigation.

If any person shall refuse or neglect to make out and deliver to the auditor a statement of personal property, as provided in this chapter, or shall refuse or neglect to make and subscribe an oath as to the truth of such statement, or any part thereof, or in case of sickness or absence of such person the auditor shall proceed to ascertain, as near as may be, and make up and return a statement of the personal property, and the value thereof, with which such person shall be charged for taxation, according to the provisions of this chapter. To enable such auditor to make up such statement, he may examine any person under oath and ascertain, from general reputation and his own knowledge of facts, the character and value of the personal property of the person thus absent or sick or refusing or neglecting to list or swear. The auditor may return the lists so made up by him endorsed “Refused to List”, “Refused to Swear”, “Absent”, or “Sick”, as the case may be, and in his return, in tabular form, may write such words opposite the names of each of the persons so refusing or neglecting to list or swear or absent or sick.

HISTORY: 1962 Code Section 65‑1632; 1952 Code Section 65‑1632; 1942 Code Section 2691; 1932 Code Section 2691; Civ. C. ‘22 Section 426; Civ. C. ‘12 Section 374; Civ. C. ‘02 Section 332; G. S. 214; R. S. 265; 1881 (17) 1004; 2015 Act No. 87 (S.379), Section 9, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 9, substituted “The auditor may return” for “The auditor shall return”, and “may write such words” for “shall write such words”.

Library References

Taxation 2469.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544, 547 to 549.

Attorney General’s Opinions

County auditor is to list and return a motor vehicle for taxation when the same has not been returned by the owner thereof. 1967‑68 Op Atty Gen, No 2440, p 96 (March 29, 1968) 1968 WL 8842.

**SECTION 12‑37‑780.** Procedure in case of suspected evasion or false return of personal property; notice to taxpayer; examination under oath.

If the county auditor shall suspect or be informed that any person has evaded making a return, has made a false return or has not made a full return of his personal property for taxation or that the valuation returned is less than it should have been, according to the rules prescribed by this chapter, he shall at any time before the settlement with the treasurer for the year, notify such person to appear before him at his office at a time fixed in such notice, together with such other person or persons as the auditor may desire to examine and such person, together with any witness called, shall be examined by the auditor under oath, touching the personal property and the value thereof of such person and everything which may tend to show the true amount such person should have returned for taxation.

HISTORY: 1962 Code Section 65‑1634; 1952 Code Section 65‑1634; 1942 Code Section 2719; 1932 Code Section 2719; Civ. C. ‘22 Section 451; Civ. C. ‘12 Section 399; Civ. C. ‘02 Section 358; G. S. 239, R. S. 291; 1881 (17) 1013.

Library References

Taxation 2474.

Westlaw Topic No. 371.

NOTES OF DECISIONS

Authority of auditor 2

Jurisdiction 1

Remedies 3

1. Jurisdiction

Auditor’s jurisdiction does not extend to cases regularly passed upon and determined by the tax boards. State v Cromer, 35 SC 213, 14 SE 493 (1892). State v Covington, 35 SC 245, 14 SE 499 (1892).

The auditor’s jurisdiction is special, and the fact giving it must affirmatively appear, and cannot be presumed. State v. Cromer (S.C. 1892) 35 S.C. 213, 14 S.E. 493.

2. Authority of auditor

In no event can the auditor increase the assessment without notice to taxpayer, and proper inquiry and testimony as to true value. National Bank of Newberry v. Boyd (S.C. 1892) 35 S.C. 233, 14 S.E. 496.

Auditor has no authority to increase valuation of property where return is not intentionally false. National Bank of Newberry v. Boyd (S.C. 1892) 35 S.C. 233, 14 S.E. 496.

3. Remedies

If the auditor increases the assessment fixed by the tax boards he may be compelled by mandamus to restore it to the amount so fixed. State v Cromer, 35 SC 213, 14 SE 493 (1892). State v Covington, 35 SC 245, 14 SE 499 (1892).

**SECTION 12‑37‑800.** Penalty for failure to list real or personal property; penalty for making false return, understating tax liability, or disregarding rules.

(A) If a person fails to list the real or personal property required by law to be listed in any one year, the value of the property may be charged against the person for taxation with a ten percent penalty added, and the taxes and penalty collected as in other cases.

(B) In addition to any other penalty, a person who intentionally makes a false return, wilfully attempts to understate tax liability, or recklessly or intentionally disregards applicable rules or regulations must be assessed a penalty equal to twenty‑five percent of the taxes due.

(C) Upon good cause shown, the department may waive or reduce the penalty imposed pursuant to this section.

HISTORY: 1962 Code Section 65‑1636; 1952 Code Section 65‑1636; 1942 Code Section 2692; 1932 Code Section 2692; Civ. C. ‘22 Section 427; Civ. C. ‘12 Section 375; Civ. C. ‘02 Section 333; G. S. 215; R. S. 266; 1881 (17) 1005; 1928 (35) 1245; 1973 (58) 764; 1986 Act No. 482, Section 3; 1988 Act No. 344, Section 1; 1994 Act No. 516, Section 30.

CROSS REFERENCES

Inducement agreement between county and investor in qualified project for payment of fee in lieu of taxes, see Section 4‑29‑67.

Library References

Taxation 3214, 3215.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1721 to 1727.

Attorney General’s Opinions

The penalty provided by 1962 Code Section 65‑1636 [1976 Code Section 12‑37‑800] is mandatorily imposed for the failure to list or return personal property for ad valorem tax purposes unless excluded by other statutory provisions such as 1962 Code Section 65‑1640 [1976 Code Section 12‑37‑870]. 1975‑76 Op Atty Gen, No 4289, p 103 (March 9, 1976) 1976 WL 22909

Tax Commission does not have statutory authority to assess omitted property for the years that such property was omitted, such authority being limited by statute to the county auditor. 1967‑68 Op Atty Gen, No 2528, p 218 (October 18, 1968) 1968 WL 8923.

Property tax may not be levied on penalty. The town of Hartsville cannot levy its ad valorem property tax on the amount of the penalty imposed by statute for the failure of the property owner to return the property for taxation because it would be a levy of taxes upon an amount that is not a part of the “actual value” of the property. 1965‑66 Op Atty Gen, No 2156, p 287 (September 21, 1966) 1966 WL 8606.

The penalties imposed in former Code 1962 Sections 65‑1633, 65‑1635 would be imposed annually regardless of whether the delegation waived the requirement for an annual return of property for taxation under the provisions of Code 1962 Section 65‑1644. 1965‑66 Op Atty Gen, No 2197, p 340 (November 23, 1966) 1966 WL 12557.

**SECTION 12‑37‑810.** Penalty where taxpayer makes wilful false return; unintentional mistake.

The county auditor, when he shall deem it necessary, may adjourn the examination provided for in Section 12‑37‑780 from time to time, and if he shall find that the person examined has intentionally made a false return or returned his property for taxation at less than its fair cash value, he shall determine what amount should have been returned by such person and add ten per cent thereto as penalty and charge such property, with such penalty, against such person on the duplicate, with the taxes of the current year and the taxes of each preceding year it may have escaped taxation, with twenty per cent penalties upon such taxes of preceding years. But if he shall find the party committed merely an unintentional mistake in his return, he shall add such amount as he may deem just to such return and charge the person with the simple taxes thereon.

HISTORY: 1962 Code Section 65‑1637; 1952 Code Section 65‑1637; 1942 Code Section 2720; 1932 Code Section 2720; Civ. C. ‘22 Section 452; Civ. C. ‘12 Section 400; Civ. C. ‘02 Section 359; G. S. 241; R. S. 292; 1881 (17) 1014; 1928 (35) 1245.

Library References

Taxation 3215.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1724.

NOTES OF DECISIONS

Unintentional mistake 1

1. Unintentional mistake

“Unintentional mistake” does not mean error of judgment; it does not apply where property is returned and passed by the tax boards at a valuation less than others might estimate it. National Bank of Newberry v. Boyd (S.C. 1892) 35 S.C. 233, 14 S.E. 496.

**SECTION 12‑37‑820.** Payment of expenses of examination.

If upon the examination provided for in Section 12‑37‑780 the return made to or by the auditor shall be found to be correct, the expenses of the examination shall be paid by the county auditor, out of the county treasury. But if it shall be found that the return, as made, was erroneous, whether intentionally so or not, or that no return was made, the auditor shall pay the expenses of the examination out of the county treasury and charge them to the person examined on the duplicate, in addition to any penalty charged in any such case. Any such amount shall be collected, with the taxes of such person, to reimburse the treasury of the county for the expenses paid as aforesaid.

HISTORY: 1962 Code Section 65‑1638; 1952 Code Section 65‑1638; 1942 Code Section 2721; 1932 Code Section 2721; Civ. C. ‘22 Section 453; Civ. C. ‘12 Section 401; Civ. C. ‘02 Section 360; G. S. 242; R. S. 293; 1881 (17) 1014.

Library References

Taxation 2474.

Westlaw Topic No. 371.

Attorney General’s Opinions

A county auditor may examine a person regarding personal property to be returned, or property that is incorrectly returned, and any documents and records relating to information required on the return by regulation of the South Carolina Tax Commission. 1983 Op Atty Gen, No. 83‑73, p. 115 (September 21, 1983) 1983 WL 142742.

**SECTION 12‑37‑830.** Allowable expenses.

The expenses to be allowed upon the examination provided for by Section 12‑37‑780 shall be for serving the notice or notices, the fees allowed to sheriffs and constables for serving a summons and, to witnesses, the fees allowed to witnesses in suits before a magistrate’s court.

HISTORY: 1962 Code Section 65‑1639; 1952 Code Section 65‑1639; 1942 Code Section 2722; 1932 Code Section 2722; Civ. C. ‘22 Section 454; Civ. C. ‘12 Section 402; Civ. C. ‘02 Section 361; G. S. 243; R. S. 294; 1881 (17) 1014.

Library References

Taxation 2474.

Westlaw Topic No. 371.

**SECTION 12‑37‑840.** Assessment as a part of collection; auditor may secure full return.

The assessment of property for taxation shall be deemed and held to be a step in the collection of taxes, and Section 12‑37‑780 shall be construed to give full and complete power to the county auditor, independent of any right conferred upon the county boards of assessors or other officers, to secure a full and complete return of property for taxation in all cases as expressed in said sections, whether a previous return shall have been fraudulently or otherwise improperly or incompletely made or not.

HISTORY: 1962 Code Section 65‑1639.1; 1952 Code Section 65‑1639.1; 1942 Code Section 2724; 1932 Code Section 2724; Civ. C. ‘22 Section 456; Civ. C. ‘12 Section 404; Civ. C. ‘02 Section 363; R. S. 296; 1892 (21) 81; 1902 (23) 790.

Library References

Taxation 2474.

Westlaw Topic No. 371.

**SECTION 12‑37‑850.** Repealed.

HISTORY: Former Section, titled Courts shall not interfere with action of auditor; payment under protest as sole remedy of taxpayer, had the following history: 1962 Code Section 65‑1639.2; 1952 Code Section 65‑1639.2; 1942 Code Section 2724; 1932 Code Section 2724; Civ. C. ‘22 Section 456; Civ. C. ‘12 Section 404; Civ. C. ‘02 Section 363; R. S. 296; 1892 (21) 81; 1902 (23) 790; 1995 Act No. 60, Section 4F. Repealed by 2015 Act No. 87, Section 10, eff June 11, 2015.

**SECTION 12‑37‑890.** Place where property shall be returned for taxation.

All property used in any business, furniture, and supplies used in hotels, restaurants and other houses of public resort, personal property used in or in connection with storehouses, manufactories, warehouses, or other places of business, all personal property and merchants’ and manufacturers’ stock and capital shall be returned for taxation and taxed in the county, city, and town in which it is situated. All shares of stock in incorporated banks located in this State shall be returned for taxation and taxed in the county, city, or town in which the bank is located. All property of deceased persons shall be returned for taxation and taxed in the county where administration may be legally granted, until distribution thereof and payment may be made to the parties entitled thereto. All other personal property shall be returned for taxation and taxed at the place where the owner thereof shall reside at the time of listing the same, if the owner resides in this State; if not, at the residence of the person having it in charge. And all real estate shall be taxed in the county, city, ward, or town where it is located. The owners of real property situate partly within and partly without any incorporated town or city shall list the part in the town or city separately from the part outside the incorporated limits thereof.

HISTORY: 1962 Code Section 65‑1643; 1952 Code Section 65‑1643; 1942 Code Section 2606; 1932 Code Section 2606; Civ. C. ‘22 Section 346; Civ. C. ‘12 Section 298; Civ. C. ‘02 Section 270; G. S. 175; R. S. 227; 1881 (17) 989; 1901 (23) 615; 2015 Act No. 87 (S.379), Section 11, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 11, in the first sentence, substituted “All property used” for “All horses, neat cattle, mules, asses, sheep, hogs, dogs, wagons, carts and other vehicles used”, inserted a comma following “warehouses” and “city”, and deleted “on farms” following “all personal property”; deleted the former second sentence, relating to bankers’ capital and personal assets; in the second sentence, inserted a comma following “city”; in the fourth sentence, inserted “resides” before “in this State”; and in fifth sentence, inserted a comma following “ward”.

Library References

Taxation 2200, 2211.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 145 to 161, 282, 438 to 439, 451, 457.

Attorney General’s Opinions

Discussion of the taxation of aircraft housed at the Aiken Regional Airport, which aircraft is owned by out of state club. S.C. Op.Atty.Gen. (October 16, 2014) 2014 WL 5439609.

The Charleston County Auditor’s Office is authorized to tax personal property such as an airplane if the county can prove the plane’s situs is in South Carolina. S.C. Op.Atty.Gen. (Nov. 13, 2013) 2013 WL 6210752.

An airplane used primarily for business purposes with a situs in South Carolina is subject to South Carolina’s personal property tax even if the airplane is owned by an out‑of‑state company. S.C. Op.Atty.Gen. (Nov. 8, 2013) 2013 WL 6210751.

Vehicles operated in South Carolina but owned by a nonresident would have a tax situs in Lancaster County for ad valorem taxation. S.C. Op.Atty.Gen. (Dec. 15, 2010) 2010 WL 5578962.

Discussion of where vehicles operating in South Carolina, but owned by an out of state business should be registered. S.C. Op.Atty.Gen. (Aug. 25, 2006) 2006 WL 2593087.

Discussion of the registration and taxation of motor vehicles operated in South Carolina but owned by a resident of another state. S.C. Op.Atty.Gen. (Sept. 10, 2001) 2001 WL 1215462.

A leased vehicle used in business acquires a situs for taxation under 1962 Code Section 65‑1643 [1976 Code Section 12‑37‑890] at the place where it is situated. A leased vehicle with no business use, but furnished solely for the personal use of corporate officers who garage the same at their place of residence, acquires a taxable situs at the place of residence. 1975‑76 Op Atty Gen, No 4248, p 47 (February 6, 1976) 1976 WL 22868.

A mobile home that remains personal property is to be returned and taxed at the residence of the owner thereof if the owner be a resident of this State and, if not, at the residence of the person having it in charge, and is to be registered in the same county of residence for purposes of Code 1962 Section 46‑100 et seq., notwithstanding the fact that the mobile home may be physically located in a county different from that of the residence of the owner or the person having it in charge. 1969‑70 Op Atty Gen, No 3013, p 297 (October 26, 1970) 1970 WL 12285.

Property of nonresident may acquire tax situs in State. Personal property may acquire a tax situs in South Carolina for ad valorem taxation notwithstanding the fact that the owner thereof may be a nonresident. 1969‑70 Op Atty Gen, No 2805, p 11 (December 2, 1969) 1969 WL 10786.

Motor vehicles used in a business are taxed where situated, and an automobile used for personal purposes is taxed at the place where the owner thereof resides if within the State and, if not, at the residence of the person having it in charge. 1968‑69 Op Atty Gen, No 2684, p 113 (June 9, 1969) 1969 WL 10684.

Boats and cruisers owned by nonresidents and permanently docked in South Carolina are taxable at the residence of the person having the boat in charge, such being specifically provided for by this section [Code 1962 Section 65‑1643]. 1968‑69 Op Atty Gen, No 2674, p 98 (May 7, 1969) 1969 WL 10675.

The construction machinery of a contractor who has his business and garage within the corporate limits of a town is subject to taxation by the town. 1967‑68 Op Atty Gen, No 2530, p 221 (October 22, 1968) 1968 WL 8925.

A mobile home that has become a part of the realty is to be considered as real property and is taxable in the county where located. 1967‑68 Op Atty Gen, No 2478, p 146 (July 18, 1968) 1968 WL 8876.

If a mobile home is not fixed to the land so as to lose its identity as personal property and such is used in a business, it shall be returned and taxed where located; but if the same is not used in a business, it is taxable in the county where the owner thereof resides. 1967‑68 Op Atty Gen, No 2478, p 146 (July 18, 1968) 1968 WL 8876.

A pleasure boat is to be returned for ad valorem taxes at the place where the owner thereof shall reside and the term “reside” means legal residence. 1967‑68 Op Atty Gen, No 2431, p 87 (March 12, 1968) 1968 WL 8834.

Motor vehicle. A motor vehicle is to be returned for taxation and taxed at the place where the owner thereof maintains his legal residence unless the motor vehicle is used in a business, in which case the same is to be returned and taxed where it is situated. 1967‑68 Op Atty Gen, No 2440, p 96 (March 29, 1968) 1968 WL 8842.

A boat used in a business is to be returned and taxed where situated. 1967‑68 Op Atty Gen, No 2418, p 67 (February 20, 1968) 1968 WL 8821.

Pleasure boats are to be returned and taxed at the residence of the owner thereof if he lives within South Carolina and, if not, then at the residence of the person having it in charge. 1967‑68 Op Atty Gen, No 2418, p 67 (February 20, 1968) 1968 WL 8821.

And is taxable though owner absent from State under military orders. A resident of Marion County is liable for county personal property tax on an automobile, even though absent from the county and State in compliance with military orders. 1966‑67 Op Atty Gen, No 2336, p 165 (November 8, 1967) 1967 WL 8646.

If an automobile is used in a business, the situs for property taxation is the business; if the same is not used in the business, its taxable situs is the owner’s residence. 1966‑67 Op Atty Gen, No 2305, p 124 (August 1, 1967) 1967 WL 8615.

LP gas tanks are situated or have a tax situs where placed on the properties of the consumer of the gas company provided the intent of the parties is that the tanks will remain on such properties for an extended period of time. 1965‑66 Op Atty Gen, No 2173, p 307 (October 11, 1966) 1966 WL 8620.

Airplanes maintained at an airport outside of a municipality’s corporate limits, as a general rule, have a tax situs at the airport when used in a business, however, if the aircraft are not used in a business, the tax situs is at the residence or domicile of the owner thereof. 1965‑66 Op Atty Gen, No 2165, p 296 (September 28, 1966) 1966 WL 8614.

Trucks which are capable of use only within city have tax situs in city. A manufactory which is located outside the limits of a municipality and garages trucks that are capable of use only at a subsidiary plant located within the municipality’s limits owes an ad valorem property tax to the municipality because the trucks have a tax situs within the municipality’s limits. 1965‑66 Op Atty Gen, No 2166, p 297 (September 28, 1966) 1966 WL 8615.

Farm machinery is subject to the ad valorem property tax in the county, city and town in which it is situated by reason of this section [Code 1962 Section 65‑1643]. 1965‑66 Op Atty Gen, No 1973, p 21 (January 28, 1966) 1966 WL 8454.

The residence of a person owning farm machinery would be evidence to establish where the farm machinery was situated for the purposes of taxation under this section [Code 1962 Section 65‑1643] but the same would not be controlling nor conclusive. 1965‑66 Op Atty Gen, No 1973, p 21 (January 28, 1966) 1966 WL 8454.

Automobile taxable at residence of owner unless used in business. Unless an automobile is one “used in the business” within the intendment of this phrase as used in this section [Code 1962 Section 65‑1643], it is subject to taxation at the place of residence shown by the owner. 1963‑64 Op Atty Gen, No 1761, p 274 (December 2, 1964) 1964 WL 8379.

NOTES OF DECISIONS

In general 1

1. In general

The term “property” as used in this section [Code 1962 Section 65‑1643] embraces real property as well as personal property. Pollitzer v. Beinkempen (S.C. 1907) 76 S.C. 517, 57 S.E. 475.

The proviso pertaining to the listing of property upon which there has been an administration applies to real property as well as to personal property. Pollitzer v. Beinkempen (S.C. 1907) 76 S.C. 517, 57 S.E. 475.

**SECTION 12‑37‑900.** Personal property tax returns; exception for certain manufacturers.

Every person required by law to list property shall, annually, between the first day of January and the first day of March, make out and deliver to the assessor of the county in which the property is by law to be returned for taxation a statement, verified by his oath, of all the real estate which has been sold or transferred since the last listing of property for which he was responsible and to whom, and of all real property possessed by him, or under his control, on the thirty‑first day of December next preceding, either as owner, agent, parent, spouse, guardian, executor, administrator, trustee, receiver, officer, partner, factor, or holder with the value thereof, on such thirty‑first day of December, at the place of return, estimating according to the rules prescribed by law.

A manufacturer not under a fee agreement is not required to return personal property for ad valorem tax purposes if the property remains in this State at a manufacturing facility that has not been operational for one fiscal year and the personal property has not been used in operations for one fiscal year. The personal property is not required to be returned until the personal property becomes operational in a manufacturing process or until the property has not been returned for ad valorem tax purposes for four years, whichever is earlier. A manufacturer must continue to list the personal property annually and designate on the listing that the personal property is not subject to tax pursuant to this section.

HISTORY: 1962 Code Section 65‑1644; 1952 Code Section 65‑1644; 1942 Code Section 2607; 1932 Code Section 2607; Civ. C. ‘22 Section 347; Civ. C. ‘12 Section 299; Civ. C. ‘02 Section 271; G. S. 176; R. S. 228; 1881 (17) 990; 1887 (19) 798; 1926 (34) 981; 1959 (51) 350; 1960 (51) 1950; 2008 Act No. 313, Section 1, eff June 12, 2008; 2015 Act No. 87 (S.379), Section 12, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 12, in the first paragraph, substituted “deliver to the assessor” for “deliver to the auditor”, and deleted “and personal” before “property possessed by him”, and deleted the prior text relating to exceptions and waivers.

CROSS REFERENCES

When and where auditor to receive returns, see Section 12‑39‑60.

Library References

Taxation 2462, 3214.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549, 1721 to 1723, 1725 to 1727.

Attorney General’s Opinions

The provisions of Section 3 of Article 10, Act 750, Acts of 1976, are applicable to tax years that begin on or after March 1, 1978, regardless of the date of the Act ratifying the same or of any effective date therein provided. 1976‑77 Op Atty Gen, No 77‑101, p 90 (April 11, 1977) 1977 WL 24443.

There is no statutory authority to change the name of the owner of property during a tax year from the name of the owner on December 31 preceding the tax year. 1975‑76 Op Atty Gen, No 4290, p 106 (March 10, 1976) 1976 WL 22910.

Property owned by the FHA on December 31 and subsequently conveyed on January 17 of the tax year is not subject to taxation. 1975‑76 Op Atty Gen, No 4227, p 8 (January 7, 1976) 1976 WL 22848.

The owner of several parcels of real property can list the same on a single return and meet the requirements of this section [Code 1962 Section 65‑1644]. 1968‑69 Op Atty Gen, No 2637, p 44 (February 18, 1969) 1969 WL 10640.

The owner of property on December 31 is liable for the ad valorem tax and is required to pay the same, even though the property is disposed of later in the taxable year. 1967‑68 Op Atty Gen, No 2508, p 193 (September 12, 1968) 1968 WL 8904.

Fixing value of property. The assessed value of property for preceding years and the sales value do not conclusively fix the value for ad valorem tax. 1966‑67 Op Atty Gen, No 2333, p 157 (November 1, 1967) 1967 WL 8643.

Liability of cotenants is joint and several. The interest of cotenants in property cannot be treated as separate interests and the liability for ad valorem tax is joint and several. 1966‑67 Op Atty Gen, No 2333, p 157 (November 1, 1967) 1967 WL 8643.

Return of new structures for taxation. A new structure must be completed for the use intended on or before December thirty‑first next preceding the taxable year to be subject to taxation and the owner must return the same for taxation between January first and March first of the taxable year. 1966‑67 Op Atty Gen, No 2237, p 39 (March 8, 1967) 1967 WL 8553.

But penalties are imposed annually regardless of when returns are made. The penalties imposed in Code 1962 Sections 65‑1633 and 65‑1635 would be imposed annually regardless of whether the delegation waived the requirement for an annual return of property for taxation under the provisions of this section [Code 1962 Section 65‑1644]. 1965‑66 Op Atty Gen, No 2197, p 340 (November 23, 1966) 1966 WL 12557.

County delegation may waive requirement of annual returns. This section [Code 1962 Section 65‑1644] authorizes the county delegation to waive the requirement that a property owner return property for tax purposes on an annual basis, permitting the property to be returned every four years. 1965‑66 Op Atty Gen, No 2197, p 340 (November 23, 1966) 1966 WL 12557.

Property tax is not prorated among persons who owned property during tax year. The ad valorem property tax is a tax due by the owner of the property on December thirty‑first of the year next preceding the taxable year and the liability is not by law prorated between the taxpayer and a subsequent owner of the property within the taxable year. 1965‑66 Op Atty Gen, No 2180, p 313 (October 24, 1966) 1966 WL 8623.

Tax situs of personal property. Personal property, as a general rule, has a taxable situs at the domicile of the owner for ad valorem property tax purposes, however, it may acquire an actual situs elsewhere. 1965‑66 Op Atty Gen, No 2045, p 123 (May 17, 1966) 1966 WL 8514.

NOTES OF DECISIONS

Constitutional issues 1

Date of valuation 2

1. Constitutional issues

Because Florida dredging company’s dredge and related equipment were physically located in Charleston County on December 31, 1970, and because such equipment was not per se engaged in interstate commerce, due process was not violated by non‑apportionment of personal property taxes for 1971 on the basis of the time its dredge and other equipment were physically in the county during 1971; nonapportionment does not clearly result in such flagrant and palpable inequity between the burden imposed and the benefit received as to amount to the arbitrary taking of property without compensation. Atkinson Dredging Co. v. Thomas (S.C. 1976) 266 S.C. 361, 223 S.E.2d 592.

2. Date of valuation

Statute requiring property‑tax valuation of owner‑occupied residential property at its highest and best use does not mandate a diversion from the general rule that the use of the property is to be determined as of December 31st of the preceding year. Charleston County Assessor v. LMP Properties, Inc. (S.C.App. 2013) 403 S.C. 194, 743 S.E.2d 88. Taxation 2443

Ordinarily, the pertinent date to determine the value of property for a given tax year is December 31st of the preceding year. Charleston County Assessor v. LMP Properties, Inc. (S.C.App. 2013) 403 S.C. 194, 743 S.E.2d 88. Taxation 2443

**SECTION 12‑37‑905.** Required date for filing property tax returns.

Notwithstanding any other provision of this title, every person required by law to make a property tax return to the county auditor must file the return with the county auditor on or before April thirtieth for property owned as of the preceding December thirty‑first.

HISTORY: 1991 Act No. 111, Section 3(A).

Library References

Taxation 2463.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544.

**SECTION 12‑37‑930.** Valuation of property; depreciation allowances for manufacturer’s machinery and equipment; department may permit adjustment in allowance.

All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used. The fair market value for vehicles, watercraft, and aircraft must be based on values derived from a nationally recognized publication of vehicle valuations, except that the value may not exceed ninety‑five percent of the prior year’s value. However, acreage allotments or marketing quota allotments for a commodity established under a program of the United States Department of Agriculture is classified as incorporeal hereditaments and the market value of real property to which they are attached may not include the value, if any, of the acreage allotment or marketing quota. Fair market value of manufacturer’s machinery and equipment used in the conduct of the manufacturing business, excluding vehicles, watercraft, and aircraft required to be registered or licensed by a state or federal agency, must be determined by reducing the original cost by an annual allowance for depreciation as stated in the following schedule.

SCHEDULE

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
| 1. | Aerospace Industry | | 15% |
|  | Includes the manufacture of aircraft, spacecraft, rockets, missiles and component parts. | | |
| 2. | Apparel and Fabricated Textile Products | | 14% |
|  | Includes the manufacture of apparel, for garments, and fabricated textile products except knitwear, knit products and rubber and leather apparel. | | |
| 3. | Cement Manufacture | | 6% |
|  | Includes the manufacture of cement. | |  |
|  | Excludes the manufacture of concrete and concrete products. | |  |
| 4. | Chemicals and Allied Products | | 11% |
|  | Includes the manufacture of basic chemicals such as acids, alkalis, salts, and organic and inorganic chemicals; chemical products to be used in further manufacture, such as synthetic fibers and plastics materials; and finished chemical products such as pharmaceuticals, cosmetics, soaps, fertilizers, paints and varnishes, explosives, and compressed and liquefied gases. | | |
|  | Excludes the manufacture of finished rubber and plastic products. | | |
| 5. | Cold Storage and Icemaking Equipment | | 6% |
| 6. | Electrical Equipment | |  |
|  | (a) | Electrical Equipment | 11% |
|  |  | Includes the manufacture of electric household appliances, electronic equipment, batteries, ignition systems, and machinery used in the generation and utilization of electrical energy. | |
|  | (b) | Electronic Equipment | 15% |
|  |  | Includes the manufacture of electronic communication, detection, guidance, control, radiation, computation, test and navigation equipment and components thereof. | |
|  |  | Excludes manufacturers engaged only in the purchase and assembly of components. | |
|  | (c) | Electronic Interconnection Component Assembly Devices for Computers and Computer Peripherals; semiconductors and semiconductor devices; substrates; flat panel displays; and liquid crystal displays | 30% |
|  |  | Includes the manufacture of interconnection component assemblies and devices, semiconductors and semiconductor devices, flat panel displays, and liquid crystal displays which are incorporated in computers or computer peripherals, or other electronic control applications, and telecommunications devices. Computer peripherals include tape drives, compact disk read‑only memory systems, hard disks, drivers, tape streamers, monitors, printers, routers, servers, and power supplies. | |
| 7. | Fabricated Metal Products | | 11% |
|  | Includes the manufacture of fabricated metal products such as cans, tinware, hardware, metal structural products, stampings and a variety of metal and wire products. | | |
| 8. | Food and Kindred Products Except Grain and Grain Mill Products, Sugar and Sugar Products, and Vegetable Oil Products | | 11% |
|  | Includes the manufacture of foods and beverages, such as meat and dairy products; baked goods; canned, frozen and preserved products; confectionery and related products; and soft drinks and alcoholic beverages. Excludes the manufacture of grain and grain mill products, sugar and sugar products, and vegetable oils and vegetable oil products. | | |
| 9. | Glass and Glass Products | | 9% |
|  | Includes the manufacture of flat, blown, or pressed glass products, such as plate, safety and window glass, glass containers, glassware and fiberglass. | | |
| 10. | Grain and Grain Mill Products 7% Includes the manufacture of blended and prepared flours, cereals, feeds and other grain and grain mill products. | | |
| 11. | Knitwear and Knit Products | | 17% |
|  | Includes the manufacture of knitwear and knit products. | |  |
| 12. | Leather and Leather Products | | 11% |
|  | Includes the manufacture of finished leather products, the tanning, currying and finishing of hides and skins, and the processing of fur pelts. | | |
| 13. | Logging and Sawmilling Includes the cutting of timber and the sawing of dimensional stock from logs. | | |
|  | (a) | Logging | 20% |
|  |  | Includes logging machinery and equipment and road building equipment used by logging and sawmill operators on their own account. | |
|  | (b) | Sawmills | 12% |
|  |  | Includes permanent or well‑established sawmills. |  |
|  | (c) | Portable Sawmills | 20% |
|  |  | Includes sawmills characterized by temporary foundations, and a lack or minimum amount of lumber‑handling; drying, and residue‑disposal equipment and facilities. | |
| 14. | Lumber, Wood Products, and Furniture | | 12% |
|  | Includes the manufacture of lumber, plywood, veneers, furniture, flooring and other wood products. | | |
|  | Excludes logging and sawmilling and the manufacture of pulp and paper. | | |
| 15. | Machinery Except Electrical Machinery, Metalworking Machinery, and Transportation Equipment | | 11% |
|  | Includes the manufacture of machinery such as engines and turbines; farm machinery; construction and mining machinery; food products machinery; textile machinery; wood‑working machinery; paper industries machinery; compressors; pumps; ball and roller bearings; blowers; industrial patterns; process furnaces and ovens; office machines; and service industry machines and equipment. | | |
|  | Excludes the manufacture of electrical machinery, metalworking machinery, and transportation equipment. | | |
| 16. | Metalworking Machinery | | 11% |
|  | Includes the manufacture of metal cutting and forming machines and associated jigs, dyes, fixtures and accessories. | | |
| 17. | Mining | | 12% |
|  | Includes the mining and quarrying of metallic and nonmetallic minerals and the milling, beneficiation and other primary preparation of such materials. | | |
|  | Excludes the extraction and refining of petroleum and natural gas and the smelting and refining of other minerals. | | |
| 18. | Motor Vehicles and Parts | | 11% |
|  | Includes the manufacture of automobiles, trucks and buses and their component parts. | | |
|  | Excludes the manufacture of glass, tires and stampings. | | |
| 19. | Paper and Allied Products | | |
|  | (a) | Pulp and Paper | 10% |
|  |  | Includes the manufacture of pulp from wood, rags, and other fibers and the manufacture of paper and paperboard from pulp. | |
|  |  | Excludes paper finishing and conversion into cartons, bags, envelopes, and similar products. | |
|  | (b) | Paper Finishing and Converting | 11% |
|  |  | Includes paper finishing and conversion into cartons, bags, envelopes and similar products. | |
| 20. | Petroleum and Natural Gas | | |
|  | (a) | Drilling, Geophysical and Field Services | 20% |
|  |  | Includes the drilling of oil and gas wells on a contract, fee or other basis and the provisions of geophysical and other exploration services. Includes oil and gas field services, such as chemically treating, plugging and abandoning wells and cementing or perforating well casings. | |
|  |  | Excludes integrated petroleum and natural gas producers which perform these services for their own account. | |
|  | (b) | Exploration, Drilling and Production | 9% |
|  |  | Includes the exploration, drilling, maintenance and production activities of petroleum and natural gas producers. Includes gathering pipelines and related storage facilities of such producers. Excludes gathering pipelines and related storage facilities of pipeline companies. | |
|  | (c) | Petroleum Refining | 8% |
|  |  | Includes the distillation, fractionation, and catalytic cracking of crude petroleum into gasoline and its other components. | |
|  | (d) | Marketing | 8% |
|  |  | Includes the marketing of petroleum and petroleum products. Includes related storage facilities and complete service stations. Excludes petroleum and natural gas trunk pipelines and related storage facilities. | |
|  |  | Excludes natural gas distribution facilities. | |
| 21. | Plastics Products | | 11% |
|  | Includes the manufacture of processed, fabricated and finished plastics products. | | |
|  | Excludes the manufacture of basic plastics materials. | | |
| 22. | Primary Metals | | |
|  | Includes the smelting, reducing, refining and alloying of ferrous and nonferrous metals from ore, pig or scrap and the manufacture of castings, forgings and other basic ferrous and nonferrous metals products. | | |
|  | (a) | Ferrous Metals | 8% |
|  | (b) | Nonferrous Metals | 9% |
| 23. | Printing and Publishing | | 11% |
|  | Includes printing, publishing, lithographing and printing services such as bookbinding, typesetting, photoengraving, and electrotyping. | | |
| 24. | Professional, Scientific, and Controlling Instruments: Photographic and Optical Equipment; Watches and Clocks | | 11% |
|  | Includes the manufacture of mechanical measuring, engineering, laboratory and scientific research instruments; optical instruments and lenses; surgical, medical and dental instruments and equipment, ophthalmic equipment; photographic equipment; and watches and clocks. | | |
| 25. | Railroad Transportation Equipment | | 11% |
|  | Includes the building and rebuilding of railroad locomotives, railroad cars, and street cars. | | |
| 26. | Rubber Products | | 15% |
|  | Includes the manufacture of finished rubber products and the recapping, retreading and rebuilding of tires. | | |
| 27. | Ship and Boat Building | | 11% |
|  | Includes the building, repairing and conversion of ships and boats. | |  |
| 28. | Stone and Clay Products Except Cement | | 8% |
|  | Includes the manufacture of structural clay products such as brick, tile and pipe; pottery and related products, such as vitreous‑china, plumbing fixtures, earthenware and ceramic insulating materials; concrete; asphalt building materials; concrete, gypsum and plaster products; cut and finished stone; and abrasive, asbestos and miscellaneous nonmetallic mineral products. | | |
|  | Excludes the manufacture of cement. | | |
| 29. | Sugar and Sugar Products | | 7% |
|  | Includes the manufacture of raw sugar, syrup or finished sugar from sugar cane or sugar beets. | | |
| 30. | Textile Mill Products Except Knitwear | | |
|  | (a) | Textile Mill Products, Excluding Finishing and Dyeing | 11% |
|  |  | Includes the manufacture of spun, woven or processed yarns and fabrics from natural or synthetic fibers. | |
|  |  | Excludes finishing and dyeing. | |
|  | (b) | Finishing and Dyeing | 14% |
|  |  | Includes textile finishing and dyeing. | |  |
| 31. | Tobacco and Tobacco Products | | 8% |  |
| 32. | Vegetable Oil Products | | 7% |  |
|  | Includes the manufacture of vegetable oils and vegetable oil products. | | |  |
| 33. | Other Manufacturing | | 11% |  |
|  | Includes the manufacture of products not covered by other guideline classes, such as the manufacture of fountain pens and jewelry. Furniture & Office Equipment of Manufacturers | | 10% |  |
| 34. | Use of Clean Rooms | | 15% |  |
|  | A manufacturer who uses a Class 100 or better clean room, as that term is defined in Federal Standard 209E, in manufacturing its product may elect an annual allowance for depreciation for property tax purposes of fifteen percent on clean room modules and associated mechanical systems, and on process piping, wiring environmental systems, and water purification systems associated with the clean room instead of a depreciation allowance for which the manufacturer otherwise is entitled. Included are waffle flooring, wall and ceiling panels, foundation improvements that isolate the clean room to control vibrations, clean air handling and filtration systems, piping systems for fluids and gases used in the manufacturing process and in the clean room that touch the product during the process, flat panel displays, and liquid crystal displays, process equipment energy control systems, ultra pure water processing and wastewater recycling systems, and safety alarm and monitoring systems. | | |  |
| 35. | Life sciences and renewable energy manufacturing | 20% |  |  |
|  | Includes machinery and equipment used directly in the manufacturing process by a life sciences or renewable energy manufacturing facility. For purposes of this item, a qualifying facility means a business engaged in pharmaceutical, medicine, and related laboratory instrument manufacturing, processing, or research and development, or that manufactures qualifying machinery and equipment for use by solar and wind turbine energy producers, as well as manufacturers of qualifying batteries for alternative energy motor vehicles, that invests a minimum of one hundred million dollars in the project, as defined in Section 12‑10‑30(8), and creates at least two hundred new full‑time jobs at the project with an average cash compensation level of at least one hundred fifty percent of the annual per capita income in this State or the county in which the facility is located, whichever is less. Per capita income must be determined using the most recent per capita income data available as of the end of the taxable year in which the jobs are filled. Included in this definition are the following North American Industrial Classification Systems, NAICS Codes published by the Office of Management and Budget of the federal government: | | |  |
|  | (i) | 3254 Pharmaceutical and Medical Manufacturing; |  |  |
|  | (ii) | 334516 Analytical Laboratory Instrument Manufacturing. |  |  |

In no event may the original cost be reduced by more than as provided in Section 12‑37‑935, except this limit is ninety percent for (1) custom molds and dies used in the conduct of manufacturing electronic interconnection component assembly devices for computers and computer peripherals; and (2) equipment used in the manufacture of tires by manufacturers who employ more than five thousand employees in this State and have over one billion dollars in capital investment in this State. Capital investment will be based upon the gross cost of assets in South Carolina as shown on the manufacturer’s property tax and fee‑in‑lieu of property tax filings. In the year of acquisition, depreciation is allowed as if the property were owned for the full year. The term “original cost” means gross capitalized cost, including property on which the taxpayer made the election allowed pursuant to Section 179 of the Internal Revenue Code of 1986, as shown by the taxpayer’s records for income tax purposes. For purposes of this paragraph, custom molds and dies used in the conduct of manufacturing electronic interconnection component assembly devices for computers and computer peripherals are molds and dies designed, produced, and conditioned to the special order of a manufacturer.

Notwithstanding the percentage allowance stated in the schedule above, the department, after examination of the relevant facts, may permit an adjustment in the percentage allowance, with the total allowance not to exceed twenty‑five percent, on account of extraordinary obsolescence. The department may set forth a depreciation allowance, instead of the depreciation allowance provided in this section, not to exceed twenty‑five percent where the taxpayer can provide relevant data concerning a useful life of the machinery and equipment which is different from the period shown in this section.

HISTORY: 1962 Code Section 65‑1648; 1952 Code Section 65‑1648; 1942 Code Section 2696; 1932 Code Section 2696; Civ. C. ‘22 Section 431; Civ. C. ‘12 Section 379; Civ. C. ‘02 Section 337; G. S. 219; R. S. 270; 1881 (17) 1006; 1926 (34) 981; 1964 (53) 2395; 1967 (55) 933; 1972 (57) 2467; 1975 (59) 248; 1977 Act No. 38; 1979 Act No. 116 Section 1; 1981 Act No. 62 Section 1; 1993 Act No. 164, Part II, Section 81; 1994 Act No. 516, Section 31; 1995 Act No. 32, Sections 6A and B; 1995 Act No. 69, Section 2A; 1996 Act No. 231, Sections 12A and B; 1996 Act No. 431, Section 22; 1996 Act No. 458, Part II, Section 8B; 1999 Act No. 93, Section 15(C), (D); 2000 Act No. 399, Section 3(Q)(2), eff August 17, 2000; 2004 Act No. 187, Section 2.A, eff March 17, 2004; 2010 Act No. 290, Section 28, eff June 23, 2010.

Editor’s Note

2004 Act No. 187, Section 2.B, provides as follows:

“In the case of machinery and equipment otherwise eligible for the depreciation allowed pursuant to Section 12‑37‑930 of the 1976 Code, as amended in subsection A of this section, if the project with which the machinery and equipment is associated is the subject of an inducement agreement between the project sponsor and the county, the initial inducement agreement must have been entered into between these parties after September 1, 2003.”

CROSS REFERENCES

Economic development bonds for convention and trade show, reimbursement provisions not applicable if sold and replaced with similar facility, see Section 11‑41‑75.

Requirement that leases and lease purchase agreements for certain industrial development projects contain a provision for a fee in lieu of taxes, see Section 4‑29‑67.

Valuation of property subject to property taxes, see S.C. Code of Regulations R. 117‑1840.

Library References

Taxation 2510 to 2573.

Westlaw Topic No. 371.

C.J.S. Commerce Section 148.

C.J.S. Taxation Sections 568 to 613, 615, 617, 626, 628 to 661, 759, 762 to 775, 892, 1044, 1817.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Tax Law. 38 S.C. L. Rev. 205 (Autumn 1986).

United States Supreme Court Annotations

Excise tax, Railroad Revitalization and Regulatory Reform Act, discriminatory taxation, see CSX Transp., Inc. v. Alabama Dept. of Revenue, 2011, 131 S.Ct. 1101, 562 U.S. 277, 179 L.Ed.2d 37, on remand 639 F.3d 1040.

Attorney General’s Opinions

An assessor should consider all evidence presented by a taxpayer and exercise his or her discretion in evaluating the weight to be given that evidence. The usefulness of any information contained in a taxpayer’s appraisal should be evaluated based on the extent to which it is probative of the true value of the disputed property at the relevant time. S.C. Op.Atty.Gen. (June 22, 2012) 2012 WL 2586919.

Neither Section 12‑37‑930 nor Section 12‑37‑3140 dictates use of the market/sales comparison approach. S.C. Op.Atty.Gen. (Oct. 20, 2011) 2011 WL 5304082.

Discussion of uniformity of valuation for property taxes. S.C. Op.Atty.Gen. (Jan. 29, 2007) 2007 WL 419433.

For roll‑back taxes timber should not be separately valued or assessed for ad valorem tax purposes, but the value of the land is to be ascertained as the same is enhanced by the trees. 1979 Op Atty Gen, No 79‑97, p 134 (July 19, 1979) 1979 WL 29102.

All agricultural lands must be taxed upon the same defined value, however, the General Assembly may prescribe different methods of determining that value, provided there is a reasonable basis for the different methods and the same do not result in a lack of uniformity and equality of values within the class. 1978 Op Atty Gen, No 78‑171, p 198 (October 16, 1978) 1978 WL 22639.

Real property, such as single family dwellings that have recently been zoned commercial, are to be taxed at the prescribed percentage of such property’s fair market value; that value is defined by Section 12‑37‑930 to be the price the property would bring following reasonable exposure to the market, where both seller and buyer are willing, not acting under compulsion and reasonably informed as to the uses and purposes to which the property is adapted and for which it is capable of being used. 1978 Op Atty Gen, No 78‑155, p 188 (September 1, 1978) 1978 WL 22623.

Any factor affecting actual value is to be considered. Property, for ad valorem tax purposes, is to be taxed upon its actual or fair market value, and in ascertaining such values, any factor or element that affects the same is to be considered. 1969‑70 Op Atty Gen, No 3045, p 337 (November 13, 1970) 1970 WL 12314.

A lease of real property and the consideration provided therein is an element to be considered in fixing the value of the land so leased for ad valorem tax purposes. 1968‑69 Op Atty Gen, No 2610, p 4 (January 7, 1969) 1969 WL 10614.

Where land is held under a life estate, the interest of the life tenant is to be valued for ad valorem taxation. 1968‑69 Op Atty Gen, No 2610, p 4 (January 7, 1969) 1969 WL 10614.

Assessment of different classes of property. There is no statute that directs or requires different classes of property within the same political subdivision to be assessed at different percentages of fair market value. 1967‑68 Op Atty Gen, No 2534, p 226 (November 28, 1968) 1968 WL 8929.

Use of ratio or percentage. Code 1962 Section 65‑1668 is the only statutory authority for the use of a ratio or percentage in the assessment of property for ad valorem tax purposes. 1967‑68 Op Atty Gen, No 2534, p 226 (November 28, 1968) 1968 WL 8929.

Cost of license tax stamps affixed to tobacco products should be considered when fixing the value of such products for ad valorem tax purposes. 1967‑68 Op Atty Gen, No 2482, p 154 (August 6, 1968) 1968 WL 8880.

Marketing quota allotments for any commodity as established under any program of the United States Department of Agriculture are not to be considered as an element in fixing the value of farmlands. 1967‑68 Op Atty Gen, No 2429, p 85 (March 12, 1968) 1968 WL 8832.

Ownership of property does not directly affect the value of property and should not be considered in fixing value for ad valorem taxes. 1967‑68 Op Atty Gen, No 2403, p 45 (January 16, 1968) 1968 WL 8807.

Effect of manufacturer allocating part of sales price for advertising. The fact that a manufacturer allocates a part of the sales price of an automobile to reimburse an expense account for advertising is of no benefit in determining the value of an automobile in the hands of a retail dealer for purposes of a personal tax, and the same cannot be deducted from the value of the property. 1964‑65 Op Atty Gen, No 1944, p 248 (November 18, 1965) 1965 WL 8100.

Excise tax as factor in determining value. The Federal manufacturer’s excise tax is levied upon the manufacturer and such tax is a part of the cost price of an automobile in the hands of a retail dealer and is includable as a factor in determining the value of the automobile for personal property tax purposes. 1964‑65 Op Atty Gen, No 1944, p 248 (November 18, 1965) 1965 WL 8100.

NOTES OF DECISIONS

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1. In general

South Carolina Const, Art 3, Section 29 and this section [Code 1962 Section 65‑1648] control the valuation of property for the purpose of ad valorem taxes. Wasson v. Mayes (S.C. 1969) 252 S.C. 497, 167 S.E.2d 304.

2. Constitutional issues

Railroad property was assessed by State Board of Equalization for railroads at eighty per cent of its real value, under provision of this section [Code 1962 Section 65‑1648] that all property should be valued “at its true value in money,” while all other property in State was assessed by county boards of assessment at from fifty to sixty per cent of the real value. Upon application of receiver for instructions, it was held that in view of general mode of assessing property for taxation there was no such evidence of intention on part of Board of Equalization to violate SC Const, Art 9, Section 1 in relation to equality of taxation, and design to put burden of tax alone on railroads, as would warrant interference of court. Chamberlain v. Walter, 1894, 60 F. 788. Taxation 2128

Sections of legislation commonly referred to as the “Life Sciences Act” designed to foster economic development and encourage creation of high‑paying jobs in life sciences industry, setting forth depreciation allowance for machinery and equipment used directly in manufacturing processes of a life science facility, providing for economic development projects and bonds, increasing limits on general obligation debt to foster economic development and to encourage creation of high‑paying jobs in life sciences industry, and providing for annual reports of cost and benefit of Act were intrinsically related to underlying purpose of the Act so as to fall within its one subject. Sloan v. Wilkins (S.C. 2005) 362 S.C. 430, 608 S.E.2d 579. States 115; Statutes 1617(12); Statutes 1617(14); Taxation 2100

It was constitutionally and statutorily permissible for the South Carolina Tax Commission to tax manufacturing plants in various counties on a valuation that reasonably approximated fair market value while the counties involved taxed certain classes of property on a valuation substantially less than fair market value where there had been no intentional failure of the counties to reassess the property under their jurisdiction; the property was being assessed by the counties as equally and uniformly as possible; the property being assessed at less than true market value represented a minority of the property in the counties concerned; and to grant the manufacturers’ request to lower their assessment would not equalize assessments, but might further compound any inequity which might exist. Owen Steel Co., Inc. v. South Carolina Tax Com’n (S.C. 1985) 287 S.C. 274, 337 S.E.2d 880, certiorari denied 106 S.Ct. 1643, 475 U.S. 1123, 90 L.Ed.2d 188.

If it be that other property in the same taxing district has been overvalued, such overvaluation may not be used to justify an overvaluation of the petitioner’s property under the guise of discrimination. If the taxing authorities have performed their statutory duty with respect to other property in the taxing district and have assessed it at its true value, there can be no discrimination in also assessing petitioner’s property at its true value. Wasson v. Mayes (S.C. 1969) 252 S.C. 497, 167 S.E.2d 304.

3. Market value

Under South Carolina law, real property should have an assessed value that reflects the property’s market value. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Taxation 2515

“Fair market value” is the measure of value for taxation purposes under property tax valuation statute. Charleston County Assessor v. LMP Properties, Inc. (S.C.App. 2013) 403 S.C. 194, 743 S.E.2d 88. Taxation 2515

“Willing buyer‑willing seller” standard used to assess real property’s market value for tax purposes is hypothetical in nature and may be assumed when no actual market exists for particular parcel of land. Long Cove Home Owners’ Ass’n, Inc. v. Beaufort County Tax Equalization Bd. (S.C. 1997) 327 S.C. 135, 488 S.E.2d 857. Taxation 2515

Fair market value is the measure of value for taxation purposes under Section 12‑37‑930. Lindsey v. South Carolina Tax Com’n (S.C. 1990) 302 S.C. 504, 397 S.E.2d 95. Taxation 2515

There is no valid distinction between market value for sales purposes and market value for taxation purposes under Section 12‑37‑930. In determining the market value of income producing commercial real estate, the contract rent of long‑term leases entered into at arm’s length and at a fair rental at the time is one of the determinative factors of the market value of property. South Carolina Tax Com’n v. South Carolina Tax Bd. of Review (S.C.App. 1985) 287 S.C. 415, 339 S.E.2d 131. Taxation 2515

4. Cost

If merchandise has not depreciated in value below the original cost, then original cost is the accepted measure of actual value for tax purposes. Belk Dept. Stores v. Taylor (S.C. 1972) 259 S.C. 174, 191 S.E.2d 144.

The cost of an article is ordinarily some evidence of its value for tax purposes. Belk Dept. Stores v. Taylor (S.C. 1972) 259 S.C. 174, 191 S.E.2d 144. Evidence 113(8)

Evidence of the purchase price of the assessed property, while not conclusive, is to be accorded substantial weight on the issue of fair market value. Belk Dept. Stores v. Taylor (S.C. 1972) 259 S.C. 174, 191 S.E.2d 144.

5. Manufacturing

In valuing personal property for tax assessment purposes under South Carolina law, the fair market value of a manufacturer’s machinery and equipment used in the conduct of the manufacturer’s business must be determined by reducing the original cost by an annual allowance for depreciation as stated in the schedule set forth in the statute. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Taxation 2529

Debtor, which formerly operated a textile business, was a “manufacturer,” for purposes of South Carolina law regarding the assessment of property taxes. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Taxation 2510

Although South Carolina law provides that the fair market value of a manufacturer’s machinery and equipment must be determined by reducing the original cost by an annual allowance for depreciation as stated in the schedule set forth in the statute, the depreciation schedule may be departed from under certain circumstances and has some degree of flexibility. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Taxation 2529

Installation costs of new machinery had to be included in assessing the value of the machinery for property tax purposes where the taxpayer had elected to add its installation costs to the manufacturer’s costs in determining gross capitalized costs for income tax purposes. Crown Cork and Seal Co., Inc. v. South Carolina Tax Com’n (S.C. 1990) 302 S.C. 140, 394 S.E.2d 315. Taxation 2529

The Tax Board of Review improperly refused to use the method provided in Section 12‑35‑930, for assessing ad valorem taxes on certain manufacturing property, arguing that the statute’s fair market value formula conflicted with the constitutional provisions of Article III, Section 29, since such determination by the board was beyond its jurisdiction and, therefore, the board was obligated to apply the statutory formula. Furthermore, under Section 12‑37‑930, property owned by a manufacturer or property that is leased to the manufacturer when the same is used in the conduct of the manufacturing business may be classified and assessed as manufacturing equipment. South Carolina Tax Com’n v. South Carolina Tax Bd. of Review (S.C. 1983) 278 S.C. 556, 299 S.E.2d 489.

6. Real property

Deed restrictions affecting use of land, including voluntary or self‑imposed restrictions, must be considered when determining value of real property for tax purposes, regardless of method used to determine true value. Long Cove Home Owners’ Ass’n, Inc. v. Beaufort County Tax Equalization Bd. (S.C. 1997) 327 S.C. 135, 488 S.E.2d 857. Taxation 2514

Real property consisting of 45 units in a multi‑family dwelling was properly valued by assessing the units as an apartment complex, rather than by assessing each unit individually as a separate townhouse, even though the units were owned individually by different taxpayers, where the units were individually deeded only to obtain financing which was not otherwise available, the units were contiguous and were operated by an apartment manager on a short‑term rental basis, and the operation was losing money but the taxpayers never attempted to sell the units individually because an inferior locale, a lack of amenities, and the location of the 45 units in a large apartment complex made them unmarketable as townhouses; use, rather than title, is the determining factor in valuation. Lindsey v. South Carolina Tax Com’n (S.C. 1990) 302 S.C. 504, 397 S.E.2d 95.

7. Commercial property

Difficulty in adapting special purpose building for “big box” retailer for other uses was not a factor for consideration in assessing commercial property for real estate taxes, even though tenant was experiencing financial difficulties and rejected the lease in the following tax year, given that special purpose building was fulfilling its purpose of housing a discount retailer on tax control date. Hull v. Spartanburg County Assessor (S.C.App. 2007) 372 S.C. 420, 641 S.E.2d 909. Taxation 2514

8. Validity of regulations

Regulation 117‑110, providing for the fair market valuation of merchants’ furniture, fixtures and equipment pursuant to Section 12‑37‑970, does not violate the state constitution where it values property as the depreciated value shown by the merchants’ records for income tax purposes and utilizes a depreciation floor; this methodology is permitted by Section 12‑37‑930, which itself does not constitutionally limit “value” to “fair market value.” South Carolina Tax Com’n v. South Carolina Tax Bd. of Review (S.C. 1991) 305 S.C. 183, 407 S.E.2d 627, certiorari denied 112 S.Ct. 878, 502 U.S. 1034, 116 L.Ed.2d 782.

9. Bankruptcy

Genuine issues of material fact existed as to the fair market value of Chapter 11 debtor‑taxpayer’s machinery and equipment, precluding summary judgment in proceeding to determine debtor’s liability for ad valorem taxes under South Carolina law. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Bankruptcy 2164.1

10. Burden of proof

Under South Carolina law, an assessor’s valuation decision is presumed correct, and the taxpayer contesting the valuation has the burden to overcome the presumption. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Taxation 2446

With respect to its real and personal property sold 11 months after tax assessment date, Chapter 11 debtor‑taxpayer, the former operator of a textile business, failed to prove that county taxing authorities incorrectly valued the taxable properties under South Carolina law; assessments were presumed to be correct under South Carolina law, debtor relied exclusively on the bankruptcy sale as evidence of the properties’ true value, but, given amount of time between assessment and sale, as well as debtor’s argument that the textile market was rapidly deteriorating, the sale was merely relevant evidence of the properties’ value, debtor presented no evidence that, when the ad valorem taxes were assessed, the properties were incorrectly valued, and neither debtor nor purchaser of its properties itemized or allocated the purchase price to reflect amount received for specific real and personal properties, or among the three counties with taxes at issue in the proceeding. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Bankruptcy 2926; Bankruptcy 2927

Under South Carolina law, a taxpayer must consider all relevant factors that have a material effect regarding valuation to overcome the presumption that the assessed value is correct. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Taxation 2446

When a taxpayer contests the assessment made by the Tax Commission, the burden is upon it to show that the valuation placed upon the inventories by the Commission is incorrect. Belk Dept. Stores v. Taylor (S.C. 1972) 259 S.C. 174, 191 S.E.2d 144. Taxation 2723

It is incumbent upon the plaintiff in an action brought under Code 1962 Sections 65‑2662 and 65‑2663 to recover taxes paid to prove to the administrative bodies that the Property Tax Division’s valuation of its property was not equivalent to the actual value or true value of the property. Newberry Mills, Inc. v. Dawkins (S.C. 1972) 259 S.C. 7, 190 S.E.2d 503.

**SECTION 12‑37‑935.** Maximum percentage depreciation; trust fund for tax relief.

(A) Except as provided in Section 12‑37‑930 for custom molds and dies used in the conduct of manufacturing electronic interconnection component assembly devices for computers and computer peripherals, and equipment used in the manufacture of tires by manufacturers who employ more than five thousand employees in this State and have over one billion dollars in capital investment in this State, the original cost must not be reduced more than the percentage provided in the following schedule:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |
|  | Property Tax Year | Maximum Percentage Depreciation | | |
|  | Before 1997 |  | 80 | percent |
|  | 1997 |  | 83.3 | percent |
|  | 1998 |  | 86.6 | percent |
|  | After 1998 |  | 90 | percent. |

(B) Annually as provided in Section 11‑11‑150, there is credited to the Trust Fund for Tax Relief an amount sufficient to reimburse all local taxing entities the amount of revenue not collected as a result of the additional depreciation more than eighty percent allowed for manufacturer’s machinery and equipment pursuant to this section. No reimbursement is allowed for any depreciation allowed in connection with custom molds and dies used in the conduct of manufacturing electronic interconnection component assembly devices for computers and computer peripherals and equipment used in the manufacture of tires by manufacturers who employ more than five thousand employees in this State and have over one billion dollars in capital investment in this State. Reimbursements must be paid from the fund in the manner provided in Section 12‑37‑270, mutatis mutandis.

HISTORY: 1996 Act No. 458, Part II, Section 8A; 1998 Act No. 419, Part II, Section 29E.

Library References

Taxation 2529.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

**SECTION 12‑37‑940.** Valuation of certain kinds of personal property.

The following articles of personal property shall be valued for taxation, as follows, to wit: leasehold estates held for any definite term, at the yearly value thereof to the lessee; annuities, at the yearly value thereof to the owner at the time of listing; and leasehold estates held on perpetual lease or for a term certain renewable forever at the option of the lessee, at the full value of the land.

HISTORY: 1962 Code Section 65‑1649; 1952 Code Section 65‑1649; 1942 Code Section 2697; 1932 Code Section 2697; Civ. C. ‘22 Section 432; Civ. C. ‘12 Section 380; Civ. C. ‘02 Section 338; G. S. 220; R. S. 271; 1881 (17) 1006; 2015 Act No. 87 (S.379), Section 13, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 13, amended the section by deleting determination of value of money, bank bills, and like items.

Library References

Taxation 2529.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

Attorney General’s Opinions

A leasehold interest created by a lease of real property from an agency of the State of South Carolina is not the subject of the ad valorem tax imposed on personal property because such an interest is intangible personal property and not includable within the provisions of the statute imposing the tax. 1966‑67 Op Atty Gen, No 2260, p 69 (April 14, 1967) 1967 WL 8575.

**SECTION 12‑37‑950.** Valuation of certain leasehold estates as real estate.

When any leasehold estate is conveyed for a definite term by any grantor whose property is exempt from taxation to a grantee whose property is not exempt, the leasehold estate shall be valued for property tax purposes as real estate.

HISTORY: 1962 Code Section 65‑1649.1; 1957 (50) 89.

Library References

Taxation 2519.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 582, 594.

NOTES OF DECISIONS

In general 1

1. In general

Provision of state constitution did not operate to exempt taxpayer, a private, for‑profit entity, from ad valorem taxation on real property taxpayer leased from the Public Service Authority for use as a campground; provision of statute governing valuation of certain leasehold estates as real estate unambiguously required that taxpayer’s leasehold estate “be valued for property tax purposes as real estate,” and it made no mention of exemption if leasehold estate was used for public purpose. Clarendon County ex rel. Clarendon County Assessor v. TYKAT, Inc. (S.C. 2011) 394 S.C. 21, 714 S.E.2d 305. Taxation 2358; Taxation 2519

**SECTION 12‑37‑970.** Assessment and return of property.

The assessment for property taxation of equipment, furniture and fixtures, and manufacturers’ real and tangible personal property, and the machinery, equipment, furniture, and fixtures of all other taxpayers required to file returns with the South Carolina Department of Revenue for purposes of assessment for property taxation, must be determined by the department from property tax returns submitted by the taxpayers to the department on or before the last day of the fourth month after the close of the accounting period regularly employed by the taxpayer for income tax purposes in accordance with Chapter 7 of this title. The department by regulation shall prescribe the form of return required by this section, the information to be contained in it, and the manner in which the returns must be submitted. Every taxpayer required to make return to the department of property for assessment for property taxation must make the return to the department not less than once each calendar year. Whenever by a change of accounting period, or otherwise, more than one accounting period ends within any one calendar year, the taxpayer must make one such return within the prescribed time for filing following the end of each of the accounting periods and the department shall determine the assessment from the return setting forth the greatest value.

When property required to be returned as herein provided is sold after the end of the seller’s accounting year and before January first next ensuing and when the purchaser’s accounting year ends after the seller’s and before January first next ensuing, the property must be returned by the seller as of the end of his accounting period. The purchaser is not required to list and return the property as of the close of his accounting period during the calendar year of sale. The seller and the purchaser are jointly and singularly liable for the tax that is due and payable by reason of this provision. The provision of this section does not apply to motor vehicles licensed for use on public highways.

When property required to be returned as provided in this section is sold before the end of the seller’s accounting year and before January first next ensuing and when the purchaser’s accounting year ends before the date of purchase and before January first next ensuing, the property must be listed and returned by the taxpayer holding title as of December thirty‑first and is liable for the tax for the ensuing year.

The Department of Revenue shall forward the assessments prepared as a result of the returns submitted pursuant to this section to the appropriate local taxing authorities no later than August fifteenth of the applicable tax year.

HISTORY: 1962 Code Section 65‑1647.1; 1964 (53) 2395; 1967 (55) 710; 1973 (58) 333; 1975 (59) 248; 1982 Act No. 361, Section 2; 1984 Act No. 286, Section 3; 1988 Act No. 343; 1988 Act No. 381, Section 1; 1990 Act No. 538, Section 3A; 1993 Act No. 181, Section 202; 2015 Act No. 87 (S.379), Section 14, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 14, in the first paragraph, deleted “merchants’ inventories,” following “assessment for property taxation of” and inserted a comma following “furniture” in the first sentence.

CROSS REFERENCES

Civil penalties and damages applicable to certain return or statement filings, see Section 12‑54‑43.

Classification of property for purposes of assessing property of merchants and related businesses, see Section 12‑43‑335.

Criminal penalties applicable to certain return or statement filings, see Section 12‑54‑44.

Library References

Taxation 2462, 2529.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549, 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

Attorney General’s Opinions

No tax return is required for the assessment and taxation of merchant’s inventory for the 1988 and subsequent tax years. The merchant, however, must file an annual application for exemption and furnish the information required therefor. If the exemption is not filed, the inventory is taxable. 1987 Op Atty Gen, No. 87‑8, p 42 (January 26, 1987) 1987 WL 245417.

Merchants are required to return inventory to South Carolina Tax Commission, and exemption by Section 16(J) of permanent provisions of 1984 Act No. 512 is limited to that inventory. 1985 Op Atty Gen, No. 85‑55, p 162 (June 4, 1985) 1985 WL 166025.

The provisions of Section 3 of Article 10, Act 750, Acts of 1976, are applicable to tax years that begin on or after March 1, 1978, regardless of the date of the Act ratifying the same or of any effective date therein provided. 1976‑77 Op Atty Gen, No 77‑101, p 90 (April 11, 1977) 1977 WL 24443.

Act 208, Acts of 1975 [Article 3 of Chapter 43 of Title 12 and Sections 12‑37‑90, 12‑37‑100, 12‑37‑970, 12‑39‑340 and 12‑37‑350 of the 1976 Code], is effective for the 1976 tax year except where otherwise specifically provided. 1974‑75 Op Atty Gen, No 4127, p 196 (September 22, 1975) 1975 WL 22423.

Commissioner not required to assess property not subject to tax. Property owned by a county and leased pursuant to the Industrial Revenue Bond Act is not subject to ad valorem tax. Therefore, the commission is not required by the provisions of this section [Code 1962 Section 65‑1647.1] to assess such property. 1968‑69 Op Atty Gen, No 2661, p 78 (March 27, 1969) 1969 WL 10663.

This section [Code 1962 Section 65‑1647.1] makes the close of the accounting period the assessment date for taxpayers keeping books on a fiscal year basis. 1968‑69 Op Atty Gen, No 2784, p 278 (November 12, 1968) 1968 WL 9005.

A taxpayer who closes his accounting period on June 30 and lists property as of that date for the ensuing tax year in accordance with this section [Code 1962 Section 65‑1647.1] is not required to pay property tax on property acquired after June 30 and before December 31, but is required to list such property at the close of the next accounting period if owned at such time. 1967‑68 Op Atty Gen, No 2509, p 194 (September 12, 1968) 1968 WL 8905.

NOTES OF DECISIONS

In general 1

Burden of proof 6

Constitutional issues 2

Cost 3

Local taxing authorities 4

Validity of regulations 5

1. In general

It was the intent of the General Assembly of this State to place in a separate classification all property used in manufacturing whether owned by or leased to a manufacturer. Holzwasser v. Brady (S.C. 1974) 262 S.C. 481, 205 S.E.2d 701.

2. Constitutional issues

The property of manufacturers or that leased to manufacturers is certainly devoted to a different use than that of other property and constitutes a reasonable basis for classification. Holzwasser v. Brady (S.C. 1974) 262 S.C. 481, 205 S.E.2d 701.

An assessment ratio of 9.5% of fair market value applied by the Tax Commission under this section [Code 1962 Section 65‑1647.1] to real property that is owned, leased to or used by a manufacturer does not violate the State or Federal Constitution, even though under Code 1962 Section 65‑3648 real property of a nonmanufacturer in Spartanburg County, not assessed by the Tax Commissioner but by the local authority, is assessed at a ratio of 4.2% of the fair market value. Holzwasser v. Brady (S.C. 1974) 262 S.C. 481, 205 S.E.2d 701.

3. Cost

If merchandise has not depreciated in value below the original cost, then original cost is the accepted measure of actual value for tax purposes. Belk Dept. Stores v. Taylor (S.C. 1972) 259 S.C. 174, 191 S.E.2d 144.

Evidence of the purchase price of the assessed property, while not conclusive, is to be accorded substantial weight on the issue of fair market value. Belk Dept. Stores v. Taylor (S.C. 1972) 259 S.C. 174, 191 S.E.2d 144.

4. Local taxing authorities

Section 12‑54‑190 does not alter the non‑disclosure provisions of Section 12‑54‑240 since the legislature could not reasonably have intended to prevent disclosure of tax commission assessments to local taxing authorities. South Carolina Tax Com’n v. Gaston Copper Recycling Corp. (S.C. 1994) 316 S.C. 163, 447 S.E.2d 843.

5. Validity of regulations

Regulation 117‑110, providing for the fair market valuation of merchants’ furniture, fixtures and equipment pursuant to Section 12‑37‑970, does not violate the state constitution where it values property as the depreciated value shown by the merchants’ records for income tax purposes and utilizes a depreciation floor; this methodology is permitted by Section 12‑37‑930, which itself does not constitutionally limit “value” to “fair market value.” South Carolina Tax Com’n v. South Carolina Tax Bd. of Review (S.C. 1991) 305 S.C. 183, 407 S.E.2d 627, certiorari denied 112 S.Ct. 878, 502 U.S. 1034, 116 L.Ed.2d 782.

6. Burden of proof

When a taxpayer contests the assessment made by the Tax Commission, the burden is upon it to show that the valuation placed upon the inventories by the Commission is incorrect. Belk Dept. Stores v. Taylor (S.C. 1972) 259 S.C. 174, 191 S.E.2d 144. Taxation 2723

**SECTION 12‑37‑975.** Filing of amended return.

The Department of Revenue may permit any person to substitute an amended return for the original return up to the last day prescribed for filing the return, including any extension of time granted by the department. The department in its discretion may accept or reject an amended return filed after the time prescribed for filing the return. An amended return may not operate to start or extend the limitation period for assessment and collection of taxes.

HISTORY: 1986 Act No. 303, Section 1; 1993 Act No. 181, Section 203.

Library References

Taxation 2463.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544.

NOTES OF DECISIONS

Retroactive exemptions 1

1. Retroactive exemptions

Statute allowing Department of Revenue the discretion to accept amended returns filed after date they were due did not authorize Department to grant retroactive property tax exemption for pollution control equipment. TNS Mills, Inc. v. South Carolina Dept. of Revenue (S.C. 1998) 331 S.C. 611, 503 S.E.2d 471. Taxation 2301

ARTICLE 7

Personal Property in Transit

**SECTION 12‑37‑1110.** “Personal property in transit” defined; such property acquires no situs for tax purposes; liberal construction of “no situs” status.

Personal property in transit through this State is personal property, goods, wares and merchandise: (a) Which is moving in interstate commerce through or over the territory of this State; or (b) which was consigned to a warehouse, public or private, within this State from without this State for storage in transit to a final destination outside of this State whether specified when transportation begins or afterward. Such property is deemed to have acquired no situs in this State for purposes of property taxation, and such “no situs” property shall not acquire situs so as to become subject to property taxation by virtue of the fact that while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The “no situs” status granted herein shall be liberally construed to effect the purposes of this article.

HISTORY: 1962 Code Section 65‑1655; 1962 (52) 1964.

CROSS REFERENCES

Constitutional rule that all property subject to taxation shall be taxed in proportion to its value, see SC Const, Art X, Section 1.

Library References

Taxation 2215.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 150, 161.

LAW REVIEW AND JOURNAL COMMENTARIES

Inventory Valuation. 25 S.C. L. Rev. 490.

Attorney General’s Opinions

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218 (September 12, 1977) 1977 WL 24624.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218.

**SECTION 12‑37‑1120.** “In transit” property; records to be kept by warehouses; inspection of records; computations; claiming “no situs” status.

All property claimed to be “no situs” under this article shall be designated as being “in transit” upon the books and records of the warehouse wherein it is located, which books and records of the warehouse shall contain a full, true and correct inventory of all such property. The books and records of any such warehouse with reference to any such “in transit” property shall be at all times open to the inspection of all taxing authorities of this State and of any political subdivision thereof. Any person making claim to “no situs” status on any property as provided for by this article shall determine the percentage of amount of “no situs” property by dividing the total property shipped during the entire latest period located in South Carolina, not exceeding thirty‑six months, into the total property shipped outside the State of South Carolina during the same period. The percentage determined in accordance with this section shall be applied to the inventory on hand on the last day of the accounting period of the person to determine the amount of “no situs” property.

Any person making claim to “no situs” status of any property under this article shall do so in the form and manner prescribed by the South Carolina Department of Revenue and all such claims shall be accompanied by a certification of the warehouseman as to the percentage used.

HISTORY: 1962 Code Section 65‑1655.1; 1962 (52) 1964; 1967 (55) 553; 1993 Act No. 181, Section 204.

Library References

Taxation 2215, 2462.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 150, 161, 541 to 549.

Attorney General’s Opinions

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218 (September 12, 1977) 1977 WL 24624.

The opinion of the United States Supreme Court rendered in the case of Michelin Tire Corporation vs. Wages, permits the taxation of imported goods when the import transit has ended; however, it does not affect the South Carolina “no situs” provisions. 1975‑76 Op Atty Gen, No 4258, p 69 (February 11, 1976) 1976 WL 22878.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218.

**SECTION 12‑37‑1130.** Penalties for false statements.

If any person shall wilfully deliver any statement to the South Carolina Department of Revenue concerning “no situs” property containing a false statement of a material fact, whether it be an owner, shipper, his agent or a storage or warehouseman or his agent, he shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment of not less than ten days nor more than six months.

HISTORY: 1962 Code Section 65‑1655.3; 1962 (52) 1964; 1993 Act No. 181, Section 205.

Library References

Taxation 2471.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 542, 544.

Attorney General’s Opinions

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218 (February 11, 1976) 1976 WL 22878

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218.

**SECTION 12‑37‑1140.** Penalties for evasion of assessment or levy of taxes.

If any owner, shipper or his agent shall by misrepresentation, concealment or violation of the provisions of this article evade assessment or the levy of taxes on property not defined herein to be personal property in transit through this State, he shall be liable in the sum of the taxes evaded which would otherwise have been levied against his property and which together with a penalty of twenty‑five per cent of such taxes shall be levied and collected in accordance with methods and procedures set out in Article 5, Chapter 37, Title 12.

HISTORY: 1962 Code Section 65‑1655.4; 1962 (52) 1964.

Library References

Taxation 3215.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1724.

Attorney General’s Opinions

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218 (February 11, 1976) 1976 WL 22878.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

The “no situs” provisions in Section 12‑37‑1110, et seq., of the 1976 Code of Laws are exemption provisions that are repealed by Section 3 of Article 10 of the South Carolina Constitution. 1976‑77 Op Atty Gen, No 77‑284, p 218.

ARTICLE 9

Manufacturers, Pawnbrokers, Mines and Mining Claims

**SECTION 12‑37‑1310.** “Manufacturer” defined.

Every person engaged in making, fabricating or changing things into new forms for use or in refining, rectifying or combining different materials for use shall be held to be a “manufacturer.”

HISTORY: 1962 Code Section 65‑1661; 1952 Code Section 65‑1661; 1942 Code Section 2632; 1932 Code Section 2632; Civ. C. ‘22 Section 355; Civ. C. ‘12 Section 302; Civ. C. ‘02 Section 273; G. S. 210; R. S. 231; 1881 (17) 992.

Attorney General’s Opinions

Producer of drawer sides or bottoms from unfinished veneer sheets. A firm that buys unfinished veneer sheets, sizes, glues the same together to a desired thickness and shapes therefrom the sides or bottoms of a drawer, thereafter shipping such sides or bottoms to another who completes the drawer, is a manufacturer for ad valorem taxation or exemption. 1969‑70 Op Atty Gen, No 2871, p 108 (April 3, 1970) 1970 WL 12157.

Where a person acquires cloth from other manufacturers situated without the State and produces a shirt from the same, such person should be considered a manufacturer as provided for in this section [Code 1962 Section 65‑1661]. 1966‑67 Op Atty Gen, No 2292, p 112 (July 13, 1967) 1967 WL 8602.

NOTES OF DECISIONS

In general 1

1. In general

Debtor, which formerly operated a textile business, was a “manufacturer,” for purposes of South Carolina law regarding the assessment of property taxes. In re Mayfair Mills, Inc. (Bkrtcy.D.S.C. 2002) 295 B.R. 827. Taxation 2510

Although a telephone company converted alternating current to direct current for the purpose of transmitting human speech, it was not a “manufacturer” within the meaning of Section 12‑43‑220. Southern Bell Tel. & Tel. Co. v. South Carolina Tax Com’n (S.C.App. 1989) 297 S.C. 492, 377 S.E.2d 358, certiorari denied 298 S.C. 308, 380 S.E.2d 172.

ARTICLE 13

Railroads

**SECTION 12‑37‑1610.** Returns of railroad companies to Department of Revenue.

The President or designated agent of every railroad company, whose track or roadbed, or any part thereof, is located in this State, shall annually, on or before the fifteenth day of the fourth month, following the close of the company’s accounting period, file a return to the South Carolina Department of Revenue, under oath, on forms prescribed by the department. Such company shall also file a duplicate copy of the annual report to the Interstate Commerce Commission of the United States Government or a duplicate copy of the annual report required by the South Carolina Public Service Commission and any other report the Department of Revenue may require that shall accurately detail all real and personal property of the company within and without this State.

HISTORY: 1962 Code Section 65‑1671; 1952 Code Section 65‑1671; 1942 Code Section 2636; 1932 Code Section 2636; Civ. C. ‘22 Section 373; Civ. C. ‘12 Section 306; Civ. C. ‘02 Section 277; G. S. 180; R. S. 234; 1881 (17) 993; 1915 (29) 125; 1926 (34) 981; 1976 Act No. 709, Part II, Section 10; 1982 Act No. 433, Section 1; 1993 Act No. 181, Section 208.

CROSS REFERENCES

Carriers, generally, see Section 58‑1‑10 et seq.

Library References

Taxation 2493.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 618 to 625.

United States Supreme Court Annotations

Taxation, railroad challenge to state method for determining value of railroad property for ad valorem tax purposes, see CSX Transp., Inc. v. Georgia State Bd. of Equalization, 2007, 128 S.Ct. 467, 552 U.S. 9, 169 L.Ed.2d 418, on remand 521 F.3d 1300.

**SECTION 12‑37‑1630.** Valuation and allocation.

In ascertaining the value of the road and property of any railroad company the value of the right of way, bed and track of the whole road shall be fixed and such value apportioned pro rata to each mile of the main track. And to the value of the number of miles of main track in each town or city of each county in this State through and into which such road is located shall be added the value of the real estate, fixtures, stationary engines, tools, implements, machinery and other stationary property provided for use in the daily operations of the road situate in such town or city. The total value of the rolling stock, moneys and credits shall be apportioned pro rata to each mile of the main track of such road and the amount thereof, according to the number of miles of main track in each town or city in this State, added to the value of the main track in each town or city respectively. And the aggregate value of such road and property in this State and in each county, city or town of this State through or into which such road is located shall be stated in such return.

HISTORY: 1962 Code Section 65‑1673; 1952 Code Section 65‑1673; 1942 Code Section 2638; 1932 Code Section 2638; Civ. C. ‘22 Section 375; Civ. C. ‘12 Section 308; Civ. C. ‘02 Section 279; G. S. 182; R. S. 236; 1881 (17) 993.

Library References

Taxation 2560.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 648 to 657.

NOTES OF DECISIONS

In general 1

1. In general

Everything of value belonging to a railroad is included in ascertaining its value, and this value is apportioned to each mile of the main track of the railroad. Hence, when a mile of the main track is taxed, such tax includes the value not only of the mile of main track, but also all other taxable property of such road according to the plan adopted in this section [Code 1962 Section 65‑1673]. This plan of assessment is fair and just. State v. Talley (S.C. 1897) 50 S.C. 374, 27 S.E. 803.

Where a State board makes an assessment of railroad property within a certain city, in accordance with the provisions of this section [Code 1962 Section 65‑1673], the municipality, acting under proper legislative authority, may make a valid higher assessment of such railroad property for municipal purposes. State v. Talley (S.C. 1897) 50 S.C. 374, 27 S.E. 803.

**SECTION 12‑37‑1640.** Form of return and oath.

The return and oath required of officers of railroad companies shall be made in such form as shall be prescribed by the department.

HISTORY: 1962 Code Section 65‑1674; 1952 Code Section 65‑1674; 1942 Code Section 2639; 1932 Code Section 2639; Civ. C. ‘22 Section 376; Civ. C. ‘12 Section 309; Civ. C. ‘02 Section 280; G. S. 183; R. S. 237; 1881 (17) 994; 1915 (29) 125.

Library References

Taxation 2494.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 618 to 619, 622, 625.

**SECTION 12‑37‑1650.** Returns to be made by receivers.

If any railroad, its appurtenances, equipments and property of any kind whatsoever shall be in the hands of a receiver or other officer, such receiver or other officer shall make the returns required by this chapter.

HISTORY: 1962 Code Section 65‑1675; 1952 Code Section 65‑1675; 1942 Code Section 2640; 1932 Code Section 2640; Civ. C. ‘22 Section 377; Civ. C. ‘12 Section 310; Civ. C. ‘02 Section 281; G. S. 184; R. S. 238; 1881 (17) 994.

Library References

Taxation 2494.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 618 to 619, 622, 625.

**SECTION 12‑37‑1660.** Power of department to question officers, agents and receivers, and to examine books and papers.

The department, or any person appointed by it for that purpose, may put any question, in writing, it may deem proper to any officer, agent or receiver of any railroad company having any portion of its track in this State, and it may summon any officer, receiver or agent of such company to appear before it and testify, under oath, touching such railroad company’s property and the management and disposition thereof. It may also, by any member of some person appointed by it, examine the books and papers of such company in the hands of the company or any of its officers, agents or receivers. All such officers, agents and receivers shall answer, under oath, all such questions as shall be put to them by the department or any person appointed by it for that purpose, relative to the condition, amount and value of the company’s property and the management or disposition thereof.

HISTORY: 1962 Code Section 65‑1676; 1952 Code Section 65‑1676; 1942 Code Section 2641; 1932 Code Section 2641; Civ. C. ‘22 Section 378; Civ. C. ‘12 Section 311; Civ. C. ‘02 Section 282; G. S. 185; R. S. 239; 1881 (17) 994; 1915 (29) 125.

Library References

Taxation 2501.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 616, 627.

**SECTION 12‑37‑1670.** Railroad officer, receiver or agent who refuses to answer questions of or submit books to department; penalties.

If any officer, receiver or agent of any railroad company having any portion of its tracks in this State shall refuse or neglect to appear before the department, or the person appointed by it, or to answer any question put to him as provided for in Section 12‑37‑1660 or submit the books and papers aforesaid for examination as provided in said section, he shall be guilty of a misdemeanor and, upon indictment and conviction therefor in the court of general sessions for any county, shall be fined in any sum not exceeding five thousand dollars and the costs of prosecution and confined in the jail of the county until he answers all questions which may be put to him by the department and such fine and costs be paid.

HISTORY: 1962 Code Section 65‑1677; 1952 Code Section 65‑1677; 1942 Code Section 1721; 1932 Code Section 1721; Cr. C. ‘22 Section 667; Cr. C. ‘12 Section 690; Cr. C. ‘02 Section 493; R. S. 378; 1881 (17) 902.

Library References

Taxation 3232.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1785.

**SECTION 12‑37‑1680.** Proceedings in case of failure to file return.

If any railroad company shall fail to make the returns to the department as required by this chapter, the department shall proceed to ascertain the value of the company’s road and property according to the principles prescribed in this Article from the best information it can conveniently obtain, and add thereto fifty percent as penalty and apportion such valuation to the several counties, towns, townships and cities through or into which such road or any part thereof may be located. The department shall certify such apportionment and valuation to the several county auditors, who shall place it on their duplicates for taxation.

HISTORY: 1962 Code Section 65‑1678; 1952 Code Section 65‑1678; 1942 Code Section 2642; 1932 Code Section 2642; Civ. C. ‘22 Section 379; Civ. C. ‘12 Section 314; Civ. C. ‘02 Section 285; G. S. 188; R. S. 242; 1881 (17) 995; 1897 (22) 453; 1915 (29) 125; 1926 (34) 981; 1982 Act No. 433, Section 2.

Library References

Taxation 2494.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 618 to 619, 622, 625.

ARTICLE 15

Telegraph, Telephone, Express and Sleeping Car Companies and Private Car Lines

**SECTION 12‑37‑1940.** Statements of telegraph and telephone companies.

Every such telegraph and telephone company doing business in this State, whether incorporated under the laws of this State, of any other state or of any foreign nation, shall annually, between the first day of January and the first day of March, make out and deliver to the department a statement, verified by the oath of the officer or agent of such company making such statement, showing, with reference to the thirty‑first day of December next preceding:

(1) the total capital stock or capital of such association, copartnership or corporation;

(2) the number of shares of capital stock issued and outstanding, the par or face value of each share and, in case no shares of capital stock are issued, in what manner such holdings are evidenced;

(3) its principal place of business;

(4) the market value of its shares of stock on the first day of December next preceding and, if such shares have no market value, the actual value thereof; and, in case no shares of stock have been issued, the market value or the actual value in case there is no market value of the capital thereof and the manner in which it is divided;

(5) the real estate, structures, machinery, fixtures and appliances owned by such association, company, copartnership or corporation and subject to local taxation within the State and the location and assessed value thereof in each county or township where it is assessed for local taxation;

(6) the specific real estate, together with the improvements thereon, owned by such association, company, copartnership or corporation, situate outside the State and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which it is used and the sum at which it is assessed for taxation in the locality where it is situate; and

(7) all mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

HISTORY: 1962 Code Section 65‑1694; 1952 Code Section 65‑1694; 1942 Code Sections 2426, 2648; 1932 Code Sections 2426, 2648; Civ. C. ‘22 Sections 365, 385; Civ. C. ‘12 Section 320; Civ. C. ‘02 Section 291; 1898 (22) 713; 1915 (29) 125; 1916 (29) 959; 1926 (34) 981; 1976 Act No. 709, Part II, Section 10.

Library References

Taxation 2493.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 618 to 625.

**SECTION 12‑37‑1990.** Form of returns when no principal office is in State; examination of agents.

All returns required to be made by telephone and telegraph companies having their principal offices out of this State shall be made in such form as the department shall prescribe and the department may require answers, under oath, to any questions it may put to the principal or any other agent of any of such companies in this State and may examine any of such agents, under oath, relative to the property and affairs of such companies and the management thereof. The department may administer any such oath.

HISTORY: 1962 Code Section 65‑1699; 1952 Code Section 65‑1699; 1942 Code Section 2654; 1932 Code Section 2654; Civ. C. ‘22 Section 391; Civ. C. ‘12 Section 330; Civ. C. ‘02 Section 301; G. S. 191; R. S. 245; 1881 (17) 998; 1915 (29) 125; 1976 Act No. 709, Part II, Section 10.

Library References

Taxation 2493, 2501.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 616, 618 to 625, 627.

**SECTION 12‑37‑2000.** Department shall examine statements and may require other data.

Upon the filing of statements required by Section 12‑37‑1940 the department shall examine them and if it shall deem them insufficient, or in case it shall deem that other information is requisite, it shall require the officer filing them to make such other and further statements as the department may call for.

HISTORY: 1962 Code Section 65‑1700; 1952 Code Section 65‑1700; 1942 Code Section 2649; 1932 Code Section 2649; Civ. C. ‘22 Section 386; Civ. C. ‘12 Section 321; Civ. C. ‘02 Section 292; 1898 (22) 713; 1915 (29) 125.

Library References

Taxation 2462.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549.

**SECTION 12‑37‑2010.** Auditors may require agents to report length of lines in each township; addition to value.

To enable the county auditors properly to apportion the assessments between the several townships, they may require the agent of any association or company subject to the provisions of this article to report to them, respectively, under oath, the length of the lines in each township, and the auditor shall thereupon add to the value so apportioned the assessed valuation of the real estate, structures, machinery, fixtures and appliances situated in any township and extend the taxes thereon upon the duplicates, as in other cases.

HISTORY: 1962 Code Section 65‑1701; 1952 Code Section 65‑1701; 1942 Code Section 2650; 1932 Code Section 2650; Civ. C. ‘22 Section 387; Civ. C. ‘12 Section 326; Civ. C. ‘02 Section 297; 1898 (22) 713, Section 10.

CROSS REFERENCES

County auditors, see Section 12‑39‑15 et seq.

Library References

Taxation 2462.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549.

**SECTION 12‑37‑2020.** Actions for taxes in case of failure or refusal to pay; penalty.

In case any association, copartnership or corporation subject to the provisions of this article shall fail or refuse to pay any taxes assessed against it in any county or township in the State, in addition to other remedies provided by law for the collection of taxes, an action may be prosecuted in the name of the State by the solicitors of the different judicial circuits of the State on the relation of the auditors of the different counties of the State. In any such action the amount of the assessment fixed by the department and apportioned to such county, or apportioned by the county auditor to any particular township, shall not be controverted, and the judgment in such action shall include a penalty of fifty per cent of the amount of taxes as assessed and unpaid, together with reasonable attorneys’ fees for the prosecution of such action.

HISTORY: 1962 Code Section 65‑1702; 1952 Code Section 65‑1702; 1942 Code Section 2651; 1932 Code Section 2651; Civ. C. ‘22 Section 388; Civ. C. ‘12 Section 327; Civ. C. ‘02 Section 298; 1898 (22) 713; 1915 (29) 125.

Library References

Taxation 2848, 3216.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 998, 1174 to 1203, 1728 to 1737.

ARTICLE 16

Private Car Line Companies

**SECTION 12‑37‑2110.** Definitions.

As used in this article, the following words shall have the following meanings:

(a) “Company” shall be deemed and construed to mean any person, copartnership, association, corporation, or syndicate that may own or operate, or be engaged in operating, furnishing, or leasing cars, as defined and described in this section, whether formed or organized under the laws of this State or any other State or territory.

(b) “Private car” includes a passenger car, sleeping car, dining car, express car, refrigerator car, oil or tank car, horse or stock car, fruit car, or any car designed for the carrying of a special commodity, operated upon the railroads in this State. “Private car” also includes any passenger train car, locomotive, or other equipment operated on the railroads in this State and owned, used or leased by the National Railroad Passenger Corporation, created under the Rail Passenger Service Act of 1970 (Public Law 91‑518, 91st Congress) or any successor in interest other than a railroad company. “Private car” does not include freight train or passenger train cars owned by railroad companies which are used or subject to use under the ordinary per diem.

(c) “Department” means the South Carolina Department of Revenue.

HISTORY: 1962 Code Section 65‑1708; 1976 Act No. 709 Part II Section 10; 1977 Act No. 17; 1993 Act No. 181, Section 209.

CROSS REFERENCES

Carriers, generally, see Section 58‑13‑10 et seq.

**SECTION 12‑37‑2120.** Filing of report required.

Every person whose private cars are operated upon the railroads in this State at any time during a calendar year shall file with the department on or before April 15, a report setting forth specifically the information prescribed by the department to enable it to make the assessment required by this article.

HISTORY: 1962 Code Section 65‑1709; 1976 Act No. 709, Part II, Section 10.

Library References

Taxation 2443, 2493, 2560.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 539, 618 to 625, 648 to 657.

**SECTION 12‑37‑2130.** Annual valuation of private cars of private car companies.

The department shall annually assess, adjust, equalize, and apportion the valuation of all private cars of each private car company of a type or model operated in this State by such private car company by such type or model. Such private cars shall be valued by the department at fair market value.

HISTORY: 1962 Code Section 65‑1710; 1976 Act No. 709, Part II, Section 10; 1982 Act No. 433, Section 3.

**SECTION 12‑37‑2140.** Method of valuation.

The valuation of such private cars apportioned to this State shall be determined by the department. The department shall determine the average number of each class of private cars physically present in the State in the year immediately preceding the year in which the tax is imposed upon the basis of car mileage, car days, or such other data as would tend to establish this average. The department shall multiply the average number so determined by the fair market value for a car of that class and use the product as the basis for the assessment of the property.

HISTORY: 1962 Code Section 65‑1711; 1976 Act No. 709, Part II, Section 10.

Library References

Taxation 2560.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 648 to 657.

**SECTION 12‑37‑2150.** Tax levy against assessed value.

The department shall annually make a tax levy against the value so assessed and determined to exist in the State at a rate which will equal the average rates of levy for all purposes in the several taxing districts of the State for the current year, and such tax levy shall be due and payable to the department before December 31 of each year.

HISTORY: 1962 Code Section 65‑1712; 1976 Act No. 709, Part II, Section 10.

Library References

Taxation 2560.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 648 to 657.

**SECTION 12‑37‑2160.** Disposition of proceeds.

The proceeds collected under this article shall be paid into the general fund of the State.

HISTORY: 1962 Code Section 65‑1713; 1976 Act No. 709, Part II, Section 10.

Library References

Taxation 3238.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1787.

**SECTION 12‑37‑2170.** Penalty for failure to file return or to pay tax.

If any person fails to file a return or to pay a tax, if one is due, on or before the time required by or under the provisions of this chapter, the tax shall be increased by ten per cent, and, in addition thereto, interest at the rate of one‑half of one percent per month shall be added to the tax.

HISTORY: 1962 Code Section 65‑1714; 1976 Act No. 709, Part II, Section 10.

Library References

Taxation 3214, 3216.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1721 to 1723, 1725 to 1737.

**SECTION 12‑37‑2190.** Effect of other ad valorem taxes.

The ad valorem taxation authorized by this article shall be in lieu of all other ad valorem taxes upon the private cars of private car companies.

HISTORY: 1962 Code Section 65‑1716; 1976 Act No. 709, Part II, Section 10.

ARTICLE 17

Other Companies and Corporations

**SECTION 12‑37‑2270.** Failure to pay tax works a forfeiture.

Whenever any corporation chartered under the laws of this State shall refuse, neglect or omit to pay the taxes for State and county purposes, as assessed and levied upon the property of such corporation, within thirty days after the time required and permitted by law for taxes to be paid with or without penalty, as required by law, the charter of such corporation, with all the rights, privileges and franchises thereunder, shall become and be deemed forfeited and the corporate existence of such corporation shall be annulled.

In every such case the Attorney General shall bring an action against such corporation for the purpose of vacating the charter or annulling the existence of such corporation in the manner prescribed by law.

HISTORY: 1962 Code Section 65‑1728; 1952 Code Section 65‑1728; 1942 Code Section 2660; 1932 Code Section 2660; Civ. C. ‘22 Section 397; Civ. C. ‘12 Section 336; Civ. C. ‘02 Section 308; 1893 (21) 395.

CROSS REFERENCES

Forfeited lands, see Section 12‑59‑10 et seq.

Library References

Corporations and Business Organizations 3001.

Westlaw Topic No. 101.

C.J.S. Corporations Sections 932, 946.

Attorney General’s Opinions

The plain language of section 12‑37‑2270 would include an ad valorem county tax. S.C. Op.Atty.Gen. (May 17, 2011) 2011 WL 2214075.

ARTICLE 19

Aircraft

**SECTION 12‑37‑2410.** Definitions.

As used in this article:

(a) “Aircraft” means any contrivance, used or designed for navigation or flight through the air.

(b) “Airline company” means any person who undertakes, directly or indirectly, to engage in the regularly scheduled transportation by aircraft of persons or property for hire in interstate, intrastate or international transportation.

(c) “Operated” or “operation” means landings or takeoffs of aircraft by any airline company as defined herein.

(d) “Department” means the South Carolina Department of Revenue.

(e) “Person” means any individual, corporation, firm, partnership, company or association, and includes a guardian, trustee, executor, administrator, receiver, conservator or any person acting in a fiduciary capacity therefor.

(f) “Plane hours” means and includes for each type of model of aircraft all hours in flight and all hours on the ground.

HISTORY: 1976 Act No. 576, Section 1; 1993 Act No. 181, Section 210.

CROSS REFERENCES

Aeronautics, generally, see Section 55‑1‑1 et seq.

Carriers, generally, see Section 58‑13‑10 et seq.

**SECTION 12‑37‑2420.** Required tax returns.

All airline companies operating in the State shall make an annual property tax return on or before the thirtieth day of April in each year for the preceding calendar or fiscal year of their flight equipment to the department. Each type and model of flight equipment shall be separately returned, valued and apportioned as herein provided.

HISTORY: 1976 Act No. 576, Section 2; 1976 Act No. 709, Part II, Section 2; 2015 Act No. 87 (S.379), Section 15, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 15, substituted “thirtieth day of April” for “15th day of April”, and deleted the former second paragraph, relating to the first report filed.

Library References

Taxation 2493.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 618 to 625.

Attorney General’s Opinions

House Bill 3857, bearing Ratification No. 660, [1976 Act No. 576; Article 19 of Chapter 37 of Title 12 of 1976 Code] is not to be given a retrospective effect and is therefore not in effect for the calendar year 1976. 1975‑76 Op Atty Gen, No. 4347, p 174 (May 13, 1976) 1976 WL 22966

**SECTION 12‑37‑2430.** Valuation of aircraft.

The department shall annually assess, adjust, equalize, and apportion the valuation of all aircraft of each airline company of a type or model operated in this State by such airline company by such type or model. Such aircraft shall be valued by the department at fair market value.

HISTORY: 1976 Act No. 576, Section 3; 1982 Act No. 433, Section 4.

Library References

Taxation 2559.

Westlaw Topic No. 371.

**SECTION 12‑37‑2440.** Ratios for valuation of aircraft.

The valuation of such aircraft apportioned to this State shall be determined by the department to be the proportion of the total valuation of such aircraft determined on the basis of the arithmetical average of the following two ratios:

(a) The ratio which the total time scheduled on the ground within this State of such aircraft during the preceding calendar or fiscal year bears to the total time scheduled on the ground within and without this State of such aircraft during the preceding calendar or fiscal year.

(b) The ratio which the total mileage scheduled within this State of such aircraft operated in this State during the preceding calendar or fiscal year bears to the total mileage scheduled within and without this State of such aircraft during the preceding calendar or fiscal year.

HISTORY: 1976 Act No. 576, Section 4.

Library References

Taxation 2559.

Westlaw Topic No. 371.

**SECTION 12‑37‑2450.** Tax levy.

The department shall annually make a tax levy against the value so assessed and determined to exist in the State at a rate which will equal the average rates of levy for all purposes in the several taxing districts of the State for the current year, and such tax levy shall be due and payable to the department before December 31st of each year.

HISTORY: 1976 Act No. 576, Section 5.

Library References

Taxation 2559.

Westlaw Topic No. 371.

**SECTION 12‑37‑2460.** Disposition of tax proceeds.

The proceeds collected under this article shall be paid into the general fund of the State.

HISTORY: 1976 Act No. 576, Section 6.

CROSS REFERENCES

Taxes for support of airports and landing fields, see Section 55‑9‑210.

Library References

Taxation 3238.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1787.

**SECTION 12‑37‑2470.** Penalty for failure to file return or to pay tax.

If any person fails to file a return or to pay a tax, if one is due, on or before the time required by or under the provisions of this article, the tax shall be increased by ten percent, and, in addition thereto, interest at the rate of one‑half of one percent per month shall be added to the tax.

HISTORY: 1976 Act No. 576, Section 7.

**SECTION 12‑37‑2490.** Effect of other ad valorem taxes upon aircraft of airline companies.

The ad valorem taxation authorized by this article shall be in lieu of all other ad valorem taxes upon the aircraft of airline companies.

HISTORY: 1976 Act No. 576, Section 9.

Library References

Taxation 2244.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 200, 213.

ARTICLE 21

Motor Vehicles

CROSS REFERENCES

Motor vehicle registration, boundary clarification, see Section 12‑37‑145.

**SECTION 12‑37‑2600.** Motor carriers exempt from ad valorem taxes.

Section effective January 1, 2019.

Motor carriers, as defined in Section 12‑37‑2810, are exempt from ad valorem taxes imposed pursuant to this chapter on large commercial motor vehicles and buses.

HISTORY: 2017 Act No. 40 (H.3516), Section 8.I, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

**SECTION 12‑37‑2610.** Tax year for motor vehicles.

Section effective until January 1, 2019. See, also, Section 12‑37‑2610 effective January 1, 2019.

The tax year for licensed motor vehicles begins with the last day of the month in which a registration required by Section 56‑3‑110 is issued and ends on the last day of the month in which the registration expires or is due to expire. No registration may be issued for motor vehicles until the ad valorem tax is paid for the year for which the registration is to be issued. Motor vehicles registered under the International Registration Plan may pay ad valorem property taxes on a semiannual basis. The provisions of this section do not apply to the transfer of motor vehicle registrations as specified in Section 12‑37‑2675 or to sales of motor vehicles by a licensed motor vehicle dealer. Notice of the sales must be furnished to the Department of Motor Vehicles by the dealer, along with other documents necessary for the registration and licensing of the vehicle concerned. The notice must be received by the Department of Motor Vehicles as a prerequisite to the registration and licensing of the vehicle and must include the name and address of the purchaser, the vehicle identification number, and the year and model of the vehicle. The notice must be an original and one copy, and the copy must be provided by the department to the auditor of the county in which the vehicle is taxable. All ad valorem taxes on a vehicle are due and payable one hundred twenty days from the date of purchase. The notice and the time in which to pay the tax applies to motor vehicles that are serviced and delivered by a licensed motor vehicle dealer for the benefit of an out‑of‑state dealer.

HISTORY: 1980 Act No. 405, Section 2; 1980 Act No. 432, Section 1; 1982 Act No. 350; 1984 Act No. 265; 1987 Act No. 188, Section 1; 1993 Act No. 164, Part II, Section 22QQ; 2015 Act No. 87 (S.379), Section 16, eff June 11, 2015.

**SECTION 12‑37‑2610.** Tax year for motor vehicles.

Section effective January 1, 2019. See, also, Section 12‑37‑2610 effective until January 1, 2019.

The tax year for licensed motor vehicles begins with the last day of the month in which a registration required by Section 56‑3‑110 is issued and ends on the last day of the month in which the registration expires or is due to expire. A registration may not be issued for motor vehicles until the ad valorem tax is paid for the year for which the registration is to be issued. Large commercial motor vehicles and buses, as defined in Section 12‑37‑2810, must pay road use fees pursuant to Article 23, Chapter 37, Title 12 in lieu of ad valorem property taxes. The provisions of this section do not apply to the transfer of motor vehicle registrations as specified in Section 12‑37‑2675 or to sales of motor vehicles by a licensed motor vehicle dealer. Notice of the sales must be furnished to the Department of Motor Vehicles by the dealer, along with other documents necessary for the registration and licensing of the vehicle concerned. The notice must be received by the Department of Motor Vehicles as a prerequisite to the registration and licensing of the vehicle and must include the name and address of the purchaser, the vehicle identification number, and the year and model of the vehicle. The notice must be an original and one copy, and the copy must be provided by the department to the auditor of the county in which the vehicle is taxable. All ad valorem taxes on a vehicle are due and payable one hundred twenty days from the date of purchase. The notice and the time in which to pay the tax applies to motor vehicles that are serviced and delivered by a licensed motor vehicle dealer for the benefit of an out‑of‑state dealer.

HISTORY: 1980 Act No. 405, Section 2; 1980 Act No. 432, Section 1; 1982 Act No. 350; 1984 Act No. 265; 1987 Act No. 188, Section 1; 1993 Act No. 164, Part II, Section 22QQ; 2015 Act No. 87 (S.379), Section 16, eff June 11, 2015; 2017 Act No. 40 (H.3516), Section 8.J, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2015 Act No. 87, Section 16, amended the section by deleting text related to motor vehicle tax year, registration, and two‑year license, and by providing that notice be given to the Department of Motor Vehicles.

2017 Act No. 40, Section 8.J, in the second sentence, substituted “A registration may not” for “No registration may”, and in the third sentence, substituted “Large commercial motor vehicles and buses, as defined in Section 12‑37‑2810, must pay road use fees pursuant to Article 23, Chapter 37, Title 12 in lieu of ad valorem property taxes” for “Motor vehicles registered under the International Registration Plan may pay ad valorem property taxes on a semiannual basis”.

CROSS REFERENCES

Applicability of this provision to the procedures for the ownership of a vehicle, see Section 56‑3‑1270.

Credit against property tax on motor vehicles, see Section 4‑10‑40.

Library References

Automobiles 37.

Taxation 2176, 2529.

Westlaw Topic Nos. 48A, 371.

C.J.S. Motor Vehicles Sections 187 to 189.

C.J.S. Taxation Sections 89 to 90, 111, 117, 119, 122, 126 to 127, 129, 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

Attorney General’s Opinions

Discussion of where vehicles operating in South Carolina, but owned by an out of state business should be registered. S.C. Op.Atty.Gen. (Aug. 25, 2006) 2006 WL 2593087.

As general rule, property of person in armed forces should not be sold for nonpayment of taxes in absence of judicial order authorizing sale. 1990 Op Atty Gen, No 90‑72 (December 21, 1990) 1990 WL 482459.

No authority exists for installment payments of property taxes due on motor vehicles. 1990 Op Atty Gen, No 90‑72 (December 21, 1990) 1990 WL 482459.

Payment of taxes on motor vehicle may be stayed under 50 USCA Section 560 for persons who are members of armed forces. However, tax collector may have need for stay judicially determined. No penalties are due by reason of stay; however interest at rate of 5 percent is due. 1990 Op Atty Gen, No. 90‑72 (December 21, 1990) 1990 WL 482459.

Motor vehicle of nonresident serviceperson located in South Carolina is not subject to taxation when vehicle is licensed and registered in South Carolina or home state of serviceperson, with exception for personal property used in trade or business. 1990 Op Atty Gen, No 90‑66 (November 20, 1990) 1990 WL 482453.

The property tax is to be apportioned for those vehicles that are licensed for periods of less than one year. When a tax is paid on such vehicle for the full year and the vehicle is licensed for less than a full year, the overpayment is to be refunded. 1989 Op Atty Gen, No 89‑135, p 364 (November 20, 1989) 1989 WL 406224.

The taxes on vehicles listed as taxable upon the duplicate provided by Section 12‑37‑2650 are to be abated when the vehicles are not licensed. 1989 Op Atty Gen, No 89‑69, p 179 (July 11, 1989) 1989 WL 406159.

A motor vehicle within the State and Richland County and subject to taxation on December 31, 1977 is taxable for 1978 notwithstanding subsequent removal. The tax assessed on such a vehicle cannot be abated because of the removal. (Decided under former law.) 1979 Op Atty Gen, No 79‑5, p 11 (January 9, 1979) 1979 WL 29011.

**SECTION 12‑37‑2615.** Penalties for violation of Section 12‑37‑2610.

Any person who violates the provisions of Section 12‑37‑2610 shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for a period not to exceed thirty days, or both.

HISTORY: 1980 Act No. 432, Section 2.

Library References

Taxation 3232.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1785.

Attorney General’s Opinions

Discussion of the enforcement of this section. S.C. Op.Atty.Gen. (Oct. 31, 2001) 2001 WL 1397513.

**SECTION 12‑37‑2620.** Tax determined for twelve or twenty‑four month period, depending on licensing period; proportionate reduction for shorter period.

The tax payable on motor vehicles required to be licensed by Section 56‑3‑110 must be determined for a twelve‑month licensing period, except when the license required is for a twenty‑four month licensing period. In that case the tax payable on motor vehicles required to be licensed by the department must be determined for a twelve‑month tax year for each of the two twelve‑month periods contained in the biennial licensure as they respectively occur. If the actual licensing period is less than twelve months for either of the two twelve‑month tax years, the tax payable must be that proportion of the above described tax that is equal to the proportion of the number of months that the licensing period is to the twelve‑month period that is affected.

HISTORY: 1980 Act No. 405, Section 3; 1993 Act No. 164, Part II, Section 22RR.

CROSS REFERENCES

Motor vehicle registration, boundary clarification, see Section 12‑37‑145.

Library References

Taxation 2529.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

Attorney General’s Opinions

The property tax is to be apportioned for those vehicles that are licensed for periods of less than one year. When a tax is paid on such vehicle for the full year and the vehicle is licensed for less than a full year, the overpayment is to be refunded. 1989 Op Atty Gen, No. 89‑135, p 364 (November 20, 1989) 1989 WL 406224.

**SECTION 12‑37‑2630.** Property tax return to be filed prior to application for motor vehicle license.

When a motor vehicle is first taxable in a county the owner or person having control of the vehicle shall make a property tax return of it within forty‑five days, as referenced in Section 56‑3‑210, and prior to applying for a license. The return shall be made to the auditor of the county in which the owner or person having control of the motor vehicles resides. If the motor vehicle is used in a business the return shall be made to the auditor of the county in which the motor vehicle is situated, that being the county and city of principal use of the vehicle. The return shall be signed under oath and shall set forth the county, school district, special or tax district, and municipality in which the vehicle is principally used.

HISTORY: 1980 Act No. 405, Section 4; 2015 Act No. 87 (S.379), Section 17, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 17, inserted in the first sentence “within forty‑five days, as referenced in Section 56‑3‑210, and”, and inserted a comma following “district” in the last sentence.

CROSS REFERENCES

Return and assessment of personal property, generally, see Section 12‑37‑710.

Library References

Taxation 2462.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549.

Attorney General’s Opinions

Discussion of where vehicles operating in South Carolina, but owned by an out of state business should be registered. S.C. Op.Atty.Gen. (Aug. 25, 2006) 2006 WL 2593087.

**SECTION 12‑37‑2640.** Auditor to determine assessed value of motor vehicle.

The auditor shall determine the assessed value of the motor vehicle and shall calculate the amount of taxes on the vehicle. However, in the case of motor vehicles whose model year is fifteen years or more prior to the tax year, the assessed value is fifty dollars and in the case of a motor vehicle whose model year is less than fifteen years prior to the tax year, the assessed value must not be less than fifty dollars. The millage to be applied to motor vehicles licensed during January through December of each year must be that applied to other taxable property within the county, school district, special or tax district and, if applicable, the municipality for the preceding regular tax year.

HISTORY: 1980 Act No. 405, Section 5; 1985 Act No. 129, Section 1.

Library References

Taxation 2529.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

**SECTION 12‑37‑2645.** Assessment ratio for determining assessed value of motor vehicle.

For purposes of determining the appropriate assessment ratio used in the calculation of the assessed value of a motor vehicle and for defining those motor vehicles subject to the assessment ratios provided in Section 1(8)(B)(a) of Article X of the Constitution of this State, the definition of “private passenger motor vehicle” provided in Section 56‑3‑630 applies except that in the case of pickup trucks, the empty weight and gross weight limits provided in that definition are increased respectively to nine thousand pounds or less and eleven thousand pounds or less and the definition is deemed to include motorcycles.

HISTORY: 2006 Act No. 333, Section 1, eff June 2, 2006.

Editor’s Note

2006 Act No. 333, Section 3, provides in part as follows:

“This act takes effect upon approval by the Governor and applies with respect to motor vehicle tax years beginning after the last day of the second month following the month in which this act was approved by the Governor....”

CROSS REFERENCES

Exemption of antique motor vehicles from property tax, see Section 12‑37‑220.

Library References

Taxation 2529.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

**SECTION 12‑37‑2650.** Issuance of tax notices and paid receipts; delegation of collection of taxes.

Section effective until January 1, 2019. See, also, section 12‑37‑2650 effective January 1, 2019.

The auditor shall prepare a tax notice of all vehicles owned by the same person and licensed at the same time for each tax year within the two‑year licensing period. A notice must describe the motor vehicle by name, model, and identification number. The notice must set forth the assessed value of the vehicle, the millage, the taxes due on each vehicle, and the license period or tax year. The notice must be delivered to the county treasurer who must collect or receive payment of the taxes. One copy of the notice must be in the form of a bill or statement for the taxes due on the motor vehicle and, when practical, the treasurer shall mail that copy to the owner or person having control of the vehicle. When the tax and all other charges included on the tax bill have been paid, the treasurer shall issue the taxpayer a paid receipt. The receipt or a copy may be delivered by the taxpayer to the Department of Motor Vehicles with the application for the motor vehicle registration. A record of the payment of the tax must be retained by the treasurer. The auditor shall maintain a separate duplicate for motor vehicles. No registration may be issued by the Department of Motor Vehicles unless the application is accompanied by the receipt, a copy of the notification required by Section 12‑37‑2610 or notice from the county treasurer, by other means satisfactory to the Department of Motor Vehicles, of payment of the tax. Motor vehicles registered under the International Registration Plan may pay ad valorem property taxes on a semiannual basis, and a proportional receipt must be issued by the treasurer subject to penalties in Section 12‑37‑2730. The treasurer, tax collector, or other official charged with the collection of ad valorem property taxes in each county may delegate the collection of motor vehicle taxes to banks or banking institutions, if each institution assigns, hypothecates, or pledges to the county, as security for the collection, federal funds or federal, state, or municipal securities in an amount adequate to prevent any loss to the county from any cause. Each institution shall remit the taxes collected daily to the county official charged with the collections. The receipt given to the taxpayer, in addition to the information required in this section and by Section 12‑45‑70, must contain the name and office of the treasurer or tax collector of the county and must also show the name of the banking institution to which payment was made.

The county official charged with the collection of taxes shall send a list of the institutions collecting the taxes to the Department of Motor Vehicles. Each institution shall certify to the Department of Motor Vehicles that the taxes have been paid, and the Department of Motor Vehicles is authorized to accept certification in lieu of the tax receipt given to the taxpayer if certification contains information required by this section.

Tax bills (notices) for county assessed personal property valued in accordance with applicable Department of Revenue regulations must include notification of the taxpayer’s appeal rights, to include a minimum amount of information of how the taxpayer should file his appeal, to whom, and within what time period.

HISTORY: 1980 Act No. 405, Section 6; 1980 Act No. 432, Section 3; 1983 Act No. 23 Section 1; 1987 Act No. 188, Section 2; 1988 Act No. 576; 1992 Act No. 361, Section 21; 1993 Act No. 164, Part II, Section 22SS; 1993 Act No. 181, Section 211; 1996 Act No. 459, Section 12; 2005 Act No. 145, Section 47, eff June 7, 2005.

**SECTION 12‑37‑2650.** Issuance of tax notices and paid receipts; delegation of collection of taxes.

Section effective January 1, 2019. See, also, section 12‑37‑2650 effective until January 1, 2019.

The auditor shall prepare a tax notice of all vehicles owned by the same person and licensed at the same time for each tax year within the two‑year licensing period. A notice must describe the motor vehicle by name, model, and identification number. The notice must set forth the assessed value of the vehicle, the millage, the taxes due on each vehicle, and the license period or tax year. The notice must be delivered to the county treasurer who must collect or receive payment of the taxes. One copy of the notice must be in the form of a bill or statement for the taxes due on the motor vehicle and, when practical, the treasurer shall mail that copy to the owner or person having control of the vehicle. When the tax and all other charges included on the tax bill have been paid, the treasurer shall issue the taxpayer a paid receipt. The receipt or a copy may be delivered by the taxpayer to the Department of Motor Vehicles with the application for the motor vehicle registration. A record of the payment of the tax must be retained by the treasurer. The auditor shall maintain a separate duplicate for motor vehicles. A registration may not be issued by the Department of Motor Vehicles unless the application is accompanied by the receipt, a copy of the notification required by Section 12‑37‑2610 or notice from the county treasurer, by other means satisfactory to the Department of Motor Vehicles, of payment of the tax. Large commercial motor vehicles and buses, as defined in Section 12‑37‑2810, must pay road use fees pursuant to Article 23, Chapter 37, Title 12 in lieu of ad valorem property taxes. The treasurer, tax collector, or other official charged with the collection of ad valorem property taxes in each county may delegate the collection of motor vehicle taxes to banks or banking institutions, if each institution assigns, hypothecates, or pledges to the county, as security for the collection, federal funds or federal, state, or municipal securities in an amount adequate to prevent any loss to the county from any cause. Each institution shall remit the taxes collected daily to the county official charged with the collections. The receipt given to the taxpayer, in addition to the information required in this section and by Section 12‑45‑70, must contain the name and office of the treasurer or tax collector of the county and must also show the name of the banking institution to which payment was made.

The county official charged with the collection of taxes shall send a list of the institutions collecting the taxes to the Department of Motor Vehicles. Each institution shall certify to the Department of Motor Vehicles that the taxes have been paid, and the Department of Motor Vehicles is authorized to accept certification in lieu of the tax receipt given to the taxpayer if certification contains information required by this section.

Tax bills (notices) for county assessed personal property valued in accordance with applicable Department of Revenue regulations must include notification of the taxpayer’s appeal rights, to include a minimum amount of information of how the taxpayer should file his appeal, to whom, and within what time period.

HISTORY: 1980 Act No. 405, Section 6; 1980 Act No. 432, Section 3; 1983 Act No. 23 Section 1; 1987 Act No. 188, Section 2; 1988 Act No. 576; 1992 Act No. 361, Section 21; 1993 Act No. 164, Part II, Section 22SS; 1993 Act No. 181, Section 211; 1996 Act No. 459, Section 12; 2005 Act No. 145, Section 47, eff June 7, 2005; 2017 Act No. 40 (H.3516), Section 8.K, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.K, in the first paragraph, in the tenth sentence, substituted “A registration may not” for “No registration may”, and in the eleventh sentence, substituted “Large commercial motor vehicles and buses, as defined in Section 12‑37‑2810, must pay road use fees pursuant to Article 23, Chapter 37, Title 12 in lieu of ad valorem property taxes” for “Motor vehicles registered under the International Registration Plan may pay ad valorem property taxes on a semiannual basis, and a proportional receipt must be issued by the treasurer subject to penalties in Section 12‑37‑2730”.

CROSS REFERENCES

Application for registration and license, see Sections 56‑3‑230 to 56‑3‑250.

Provisions relative to content of receipts for county property tax payments and acceptability of certification of payment by a tax collecting institution in lieu of a tax receipt, see Section 12‑45‑70.

Attorney General’s Opinions

The taxes on vehicles listed as taxable upon the duplicate provided by Section 12‑37‑2650 are to be abated when the vehicles are not licensed. 1989 Op Atty Gen, No. 89‑69, p 179 (July 11, 1989) 1989 WL 406159.

**SECTION 12‑37‑2660.** Listing of license registration applications to be furnished to county auditors.

The Department of Motor Vehicles shall furnish to the auditor of each county a listing of license registration applications to be mailed to the owners of motor vehicles in the respective counties. The listings must be furnished to the auditor as soon as possible but not later than sixty days before the expiration of the registration. Listings must be in the form of electronic media. The Department of Motor Vehicles shall provide notice to the respective counties each month for all vehicles that are licensed the second year of the two‑year licensing period. This listing must contain an updating of the prior year’s list to denote vehicles in which the license or registration is transferred or canceled.

HISTORY: 1980 Act No. 405, Section 7; 1993 Act No. 164, Part II, Section 22TT; 1993 Act No. 181, Section 212; 1996 Act No. 459, Section 13; 2015 Act No. 87 (S.379), Section 18, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 18, substituted “not later than sixty days” for “not later than ninety days” and substituted “electronic media” for “computer tapes or printouts”.

CROSS REFERENCES

County auditors, generally, see Section 12‑39‑15 et seq.

License registration applications, generally, see Sections 56‑3‑230 to 56‑3‑250.

**SECTION 12‑37‑2675.** Transfer of vehicle license, tax levy prohibited until license expires.

If a license is transferred from one motor vehicle to another, no tax may be levied on the motor vehicle to which the license was transferred until the license expires.

HISTORY: 1994 Act No. 417, Section 1.

Library References

Taxation 2443.

Westlaw Topic No. 371.

C.J.S. Taxation Section 539.

**SECTION 12‑37‑2680.** Determination of assessed value of vehicle.

The assessed value of the vehicle must be determined as of the first day of the month preceding the beginning of the tax year for the vehicles. The assessed values must be published in guides or manuals by the South Carolina Department of Revenue and provided to the auditor of each county as often as may be necessary to provide for current values. When the value of any vehicle is not set forth in the guide or manual the auditor shall determine the value from other available information.

HISTORY: 1980 Act No. 405, Section 9; 1993 Act No. 164, Part II, Section 22UU; 1993 Act No. 181, Section 214; 1995 Act No. 60, Section 4G.

Library References

Taxation 2443, 2529.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 539, 568 to 572, 575 to 576, 602 to 603, 628 to 629, 637.

**SECTION 12‑37‑2690.** Assessment and collection of municipal taxes.

A municipality may by contract authorize the county to assess and collect the municipal tax on motor vehicles. When so contracted, the provisions hereof shall be applicable to the municipal tax on vehicles. In such cases the duplicate and receipt above provided for shall also reflect the amount of municipal tax. A municipality that does not contract shall by ordinance provide for the date that taxes due on motor vehicles for each tax year are to be paid. All statutes providing for the collection of taxes shall be applicable to such municipal tax.

HISTORY: 1980 Act No. 405, Section 10.

CROSS REFERENCES

Authorization for municipalities to tax personal property, see Section 5‑7‑30.

Library References

Taxation 2439, 2807.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 509 to 515, 1130, 1824.

**SECTION 12‑37‑2710.** Returns for personal property registered with state agencies.

Except as provided in Section 12‑37‑2630, no return shall be required for personal property which is required by state law to be registered with an agency of the State. The provisions of this section shall be effective for tax years beginning after December 31, 1980.

HISTORY: 1980 Act No. 405, Section 12.

CROSS REFERENCES

Return and assessment of personal property, generally, see Section 12‑37‑710.

Library References

Taxation 2462.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 541 to 549.

**SECTION 12‑37‑2720.** Exception as to motor vehicles held for sale by dealers.

The provisions of this article shall not apply to motor vehicles which are a part of the inventory held for sale by licensed motor vehicle dealers and which are operated on the highways under a dealer tag.

HISTORY: 1980 Act No. 405, Section 13.

CROSS REFERENCES

General provisions regarding motor vehicle dealers’ licenses, see Section 56‑3‑2320 et seq.

Library References

Taxation 2180.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 89 to 90, 124 to 125.

**SECTION 12‑37‑2721.** Exemptions from motor vehicle tax.

The provisions of this article do not apply to motor vehicles owned and licensed by motor vehicle dealers and operated on the highway with education license plates pursuant to Section 56‑3‑2320.

HISTORY: 1994 Act No. 497, Part II, Section 37C.

Code Commissioner’s Note

Another Section 12‑37‑2721 was added by 1994 Act No. 497, Part II, Section 70B. At the direction of the Code Commissioner, that section was renumbered as Section 12‑37‑2723.

Library References

Taxation 2345.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 276, 334 to 335, 362 to 378, 394 to 396.

**SECTION 12‑37‑2722.** Exemptions from the motor vehicle tax.

This article does not apply to motor vehicles on which is used a research and development license plate issued by the department pursuant to Section 56‑3‑2335.

HISTORY: 1994 Act No. 497, Part II, Section 84B.

Library References

Taxation 2309.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 277 to 280, 316 to 318, 393, 397.

**SECTION 12‑37‑2723.** Article inapplicable to vehicles operated on highway with manufacturer’s plates.

The provisions of this article do not apply to motor vehicles held by a manufacturer and operated on the highway with manufacturer’s license plates issued pursuant to Section 56‑3‑2330.

HISTORY: 1994 Act No. 497, Part II, Section 70B.

Code Commissioner’s Note

1994 Act No. 497, Part II, Section 70B added this section as 12‑37‑2721. Section 12‑37‑2721 was previously added by 1994 Act No. 497, Part II, Section 37C. At the direction of the Code Commissioner, the section added by 1994 Act No. 497, Part II, Section 70B has been renumbered as 12‑37‑2723.

Library References

Taxation 2309.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 277 to 280, 316 to 318, 393, 397.

**SECTION 12‑37‑2725.** Cancellation of license plate and registration certificate upon transfer of vehicle title or upon owner of vehicle becoming legal resident of another state and registers vehicle in that state; refund or credit for property taxes paid by transferor.

When the title to a licensed vehicle is transferred, or the owner of the vehicle becomes a legal resident of another state and registers the vehicle in the new state of residence, the license plate and registration certificate may be returned for cancellation. The license plate and registration certificate must be delivered to the Department of Motor Vehicles. A request for cancellation must be made in writing to the auditor upon forms approved by the Department of Motor Vehicles. The auditor, upon receipt of the Form 5051 and the request for cancellation, shall order and the treasurer shall issue a credit or refund of property taxes paid by the transferor on the vehicle. The amount of the refund or credit is that proportion of the tax paid that is equal to that proportion of the complete months remaining in that tax year. The auditor, within five days thereafter, shall deliver the request for cancellation to the Department of Motor Vehicles. Upon receipt, the Department of Motor Vehicles shall cancel the license plate and registration certificate and may not reissue the same.

HISTORY: 1985 Act No. 40, Section 1; 1993 Act No. 164, Part II, Section 22WW; 1993 Act No. 181, Section 215; 1994 Act No. 516, Section 32; 1996 Act No. 459, Section 14; 2015 Act No. 87 (S.379), Section 19, eff June 11, 2015.

Code Commissioner’s Note

Pursuant to the direction to the Code Commissioner in 2003 Act No. 51, Section 18, “Department of Public Safety” was changed to “Department of Motor Vehicles” in three places.

Effect of Amendment

2015 Act No. 87, Section 19, substituted “Department of Motor Vehicles” for “auditor of the county of the vehicle’s registration and tax payment” in the second sentence; substituted “Form 5051” for “license plate, registration certificate,” in the fourth sentence; and deleted “license plate, registration certificate, and the written” following “shall deliver the” in the second to the last sentence.

Library References

Automobiles 55.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 299 to 302.

Attorney General’s Opinions

Discussion of the level of proof required to evidence a transfer of title. S.C. Op.Atty.Gen. (Oct. 28, 1994) 1994 WL 649314.

While it is not possible to identify all circumstances that may evidence a transfer of title under Section 12‑37‑2725, conclusive evidence is established when the auditor is presented with a certification from the Motor Vehicle Division of the Department of Revenue that a new Certificate of Title has been issued to a subsequent owner. Other evidence, such as presentation of a retained copy of the Certificate of Title showing the required signature of transfer, in the absence of fraud or collusion, is compelling evidence that title has transferred to another party. Other evidence may be examined, and it is the auditor’s duty to establish reasonable means to determine that the vehicle has in fact been transferred to a subsequent owner. 1994 Op Atty Gen, No. 94‑65, p. 141 (October 28, 1994) 1994 WL 649314.

**SECTION 12‑37‑2730.** Penalties; summons.

(A) It is unlawful for a person to use the treasurer’s receipt to obtain a motor vehicle license plate unless all municipal personal property taxes due in the county of his residence on a vehicle now or previously owned by the applicant have been paid. A person who knowingly violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars. Each day’s violation constitutes a separate offense.

The above penalty is in addition to any other penalties prescribed by law for failure to pay municipal taxes.

When a municipality contracts for the collection of its vehicle tax, a receipt for the payment of the taxes must not be issued unless both the county and municipal tax and all other charges included on the tax bill have been paid. The owner of a motor vehicle registered under the International Reciprocity Plan who opts to pay semiannually and fails to pay semiannual payments as provided in this chapter is not permitted to relicense the vehicle until all taxes are paid and shall forfeit any further privilege to pay semiannually.

(B) To enforce the collection of personal property taxes and vehicle registration laws of this State, a code enforcement officer may issue an ordinance summons to a person the officer believes has failed to remit property taxes to the appropriate taxing entity or a person he believes has failed to comply fully with the vehicle registration laws of this State. However, a code enforcement officer may not stop a vehicle that is in motion to issue an ordinance summons pursuant to this section. A fine imposed pursuant to this section may not exceed the criminal jurisdiction of the magistrates’ court. A magistrate shall dismiss an ordinance summons issued pursuant to this subsection upon a showing by the person summoned of proper registration and the payment of current and delinquent property taxes before the court hearing date set in the summons.

HISTORY: 1980 Act No. 405, Section 14; 1987 Act No. 188, Section 3; 2005 Act No. 145, Section 48, eff June 7, 2005.

CROSS REFERENCES

Applicability of penalties herein to a failure to issue a proportional‑receipt for ad valorem property taxes paid semi‑annually, see Section 12‑37‑2650.

Library References

Taxation 3232.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1785.

**SECTION 12‑37‑2735.** Repealed.

HISTORY: Former Section, titled Personal Property Tax Relief Fund established, had the following history: 1999 Act No. 100, Part II, Section 111. Repealed by 2015 Act No. 87, Section 20, eff June 11, 2015.

**SECTION 12‑37‑2740.** Suspension of driver’s license and vehicle registration for failure to pay personal property tax on a vehicle.

(A) The Department of Motor Vehicles shall suspend the driver’s license and vehicle registration of a person who fails to pay personal property tax on a vehicle. The request to suspend must be an electronic notification from the county treasurer of the county in which the tax is delinquent. Before the electronic notification is sent to the Department of Motor Vehicles, the county treasurer shall notify the delinquent taxpayer of the pending suspension by letter. The letter must be developed by the county treasurers in conjunction with the Department of Motor Vehicles and used uniformly throughout the State. The letter must advise the person of the pending suspension and the steps necessary to prevent the suspension from being entered on the person’s driving and registration records. A county must allow thirty days for the payment of taxes before the county notifies the Department of Motor Vehicles to suspend the person’s driver’s license and vehicle registration.

(B) Notwithstanding the provisions of Sections 56‑1‑460 and 56‑9‑500, a charge of driving under suspension if the suspension is solely for failure to pay property taxes or the reinstatement fee required for the property tax suspension does not require proof of financial responsibility. A person is not subject to a custodial arrest solely for being under suspension pursuant to provisions contained in this section. Upon conviction:

(1) For a first offense under this section, the penalty is a fine not to exceed fifty dollars.

(2) For a second offense under this section, the penalty is a fine not to exceed two hundred fifty dollars.

(3) For a third or subsequent offense under this section, the penalty is a fine not to exceed five hundred dollars, or imprisonment not to exceed thirty days, or both.

(C) Notwithstanding the provisions of subsections (A) and (B) of this section or the provisions of Section 56‑1‑460, a charge of driving under suspension issued solely as a result of this section must be dismissed if the person provides proof on the person’s court date that the personal property taxes on the vehicle which resulted in the charge being issued have been paid.

(D) Before the reinstatement of a driver’s license or vehicle registration suspended pursuant to this section, a fee of fifty dollars must be paid to the Department of Motor Vehicles. An amount equal to the actual departmental direct costs related to suspension and reinstatement actions pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57‑11‑20, to be distributed as provided in Section 11‑43‑167. Fees collected in excess of actual departmental direct costs related to suspension and reinstatement actions pursuant to this section must be deposited to the credit of the general fund of the State at the end of each fiscal year.

HISTORY: 2001 Act No. 101, Section 1, eff October 1, 2001; 2006 Act No. 386, Section 24, eff June 14, 2006; 2016 Act No. 275 (S.1258), Section 9, eff July 1, 2016.

Effect of Amendment

2016 Act No. 275, Section 9, amended (D), providing that all or a portion of the fees or fines collected by the department of motor vehicles shall be credited to the state highway fund.

CROSS REFERENCES

Fees and fines credited to the State Highway Fund, see Section 11‑43‑167.

Library References

Automobiles 55.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 299 to 302.

ARTICLE 23 [effective until January 1, 2019]

Motor Carriers

**SECTION 12‑37‑2810.** Definitions.

Section effective until January 1, 2019. See, also, section 12‑37‑2810 effective January 1, 2019.

As used in this article, unless the context requires otherwise:

(A) “Motor carrier” means a person who owns, controls, operates, manages, or leases a motor vehicle or bus for the transportation of property or persons in intrastate or interstate commerce except for scheduled intercity bus service and farm vehicles using FM tags as allowed by the Department of Motor Vehicles. A motor carrier is defined further as being a South Carolina‑based International Registration Plan registrant or owning or leasing real property within this State used directly in the transportation of freight or persons.

(B) “Motor vehicle” means a motor propelled vehicle used for the transportation of property on a public highway with a gross vehicle weight of greater than twenty‑six thousand pounds.

(C) “Highway” means all public roads, highways, streets, and ways in this State, whether within a municipality or outside of a municipality.

(D) “Person” means any individual, corporation, firm, partnership, company or association, and includes a guardian, trustee, executor, administrator, receiver, conservator, or a person acting in a fiduciary capacity.

(E) “Semitrailers” means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that a part of its weight and of its load rests upon or is carried by another vehicle.

(F) “Trailers” means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(G) “Bus” means every motor vehicle designed for carrying more than sixteen passengers and used for the transportation of persons, for compensation, other than a taxicab or intercity bus.

HISTORY: 1996 Act No. 461, Section 1; 1998 Act No. 442, Section 12A; 2000 Act No. 399, Section 3(T)(1), eff August 17, 2000.

**SECTION 12‑37‑2820.** Assessment of motor vehicles.

Section effective until January 1, 2019. See, also, Section 12‑37‑2820 effective January 1, 2019.

(A) The Department of Revenue annually shall assess, equalize, and apportion the valuation of all motor vehicles of motor carriers. The valuation must be based on fair market value for the motor vehicles and an assessment ratio of nine and one‑half percent as provided by Section 12‑43‑220(g). Fair market value is determined by depreciating the gross capitalized cost of each motor vehicle by an annual percentage depreciation allowance down to ten percent of the cost as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |
| (1) | Year One | — | .90 |  |
| (2) | Year Two | — | .80 |  |
| (3) | Year Three | — | .65 |  |
| (4) | Year Four | — | .50 |  |
| (5) | Year Five | — | .35 |  |
| (6) | Year Six | — | .25 |  |
| (7) | Year Seven | — | .20 |  |
| (8) | Year Eight | — | .15 |  |
| (9) | Year Nine | — | .10 |  |

(B) “Gross capitalized cost”, as used in this section, means the original cost upon acquisition for income tax purposes, not to include taxes, interest, or cab customizing. However, for a motor vehicle which is fueled wholly or partially by alternative fuel as defined in Section 12‑28‑110(1), and that was acquired after 2015 but before 2026, the gross capitalized cost is reduced by the differential costs of a comparable diesel or gasoline powered vehicle, not to exceed thirty percent of the total acquisition cost of the motor vehicle. This reduction shall apply for the first ten property tax years for which tax is due following the acquisition of the vehicle.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1B; 1998 Act No. 442, Section 12B; 2016 Act No. 269 (S.1122), Section 2.A, eff June 6, 2016.

**SECTION 12‑37‑2830.** Determination of value based on ratio.

Section effective until January 1, 2019. See, also, section 12‑37‑2830 effective January 1, 2019.

The value of a motor carrier’s vehicles subject to property taxes in this State must be determined based on the ratio of total mileage operated within this State during the preceding calendar year to the total mileage of its fleet operated within and without this State during the same preceding calendar year.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1C; 1998 Act No. 442, Section 12C; 1999 Act No. 100, Part II, Section 66.

**SECTION 12‑37‑2840.** Annual property tax returns; failure to remit taxes or file returns; assessments; appeals; penalties.

Section effective until January 1, 2019. See, also, section 12‑37‑2840 effective January 1, 2019.

(A) Motor carriers must file an annual property tax return with the Department of Revenue no later than June 30 for the preceding calendar year and remit one‑half of the tax due or the entire tax due as stated on the return. If the motor carrier fails to pay either one‑half of the tax due or the entire tax due as of June 30, the department must issue a proposed assessment for the entire tax to the motor carrier. The tax as shown in the proposed assessment must be paid in full by cashier’s check, money order, or cash within thirty days of the issuance of the proposed assessment, or the taxpayer may appeal the proposed assessment within thirty days using the procedures provided in subarticle 1, Article 5, Chapter 60 of this title.

(B)(1) If one‑half of the tax is remitted on or before June 30, the remaining one‑half of the tax due must be paid to the Department of Revenue on or before December 31 of that year. If the motor carrier fails to remit the remaining tax due pursuant to this section, the department shall issue a proposed assessment to the motor carrier.

(2) The tax shown in the proposed assessment must be paid in full by cashier’s check, money order, or cash or appealed within thirty days of the issuance of the proposed assessment. The taxpayer may appeal the proposed assessment using the procedures provided in subarticle 1, Article 5, Chapter 60 of this title.

(C) If a motor carrier fails to timely file the return as required by this section, the department shall issue a proposed assessment which assumes all mileage of the motor carrier’s fleet was driven within this State. A taxpayer may appeal this proposed assessment using the procedures provided in subarticle 1, Article 5, Chapter 60 of this title.

(D) A twenty‑five percent penalty must be added to the property tax due if the motor carrier fails to file a return or pay any tax due, including the one‑half of the tax due on June 30, as required by this section. The penalty must be applied the day after the date that the return was due to be filed or the tax was due to be paid. This penalty is instead of all other penalties and interest required by law, except those provided in Section 12‑54‑44.

(E) If the motor carrier fails to remit the tax due within thirty days of receipt of the proposed assessment and the taxpayer fails to appeal the proposed assessment as provided in subsection (B), the department shall assess the tax. Tax due pursuant to this section is subject to the collection procedures provided in Chapter 54, of this title, except that the penalty provisions of Section 12‑54‑43 do not apply.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1D; 1998 Act No. 442, Section 12D; 2000 Act No. 399, Section 3(T)(2), eff August 17, 2000.

**SECTION 12‑37‑2842.** Registration of vehicles or buses with Department; notification to Department of disposition of vehicles or buses.

Section omitted by 2017 Act No. 40, Section 8.A, effective January 1, 2019.

(A) The Department of Motor Vehicles, at the time of first registration by a motor carrier as defined in this article, shall notify the registrant of the Department of Revenue’s registration and filing requirements and supply the required registration forms.

(B) The motor carrier must register with the Department of Revenue within thirty days following the year in which the vehicle or bus was first registered for operation in South Carolina.

(C) A motor carrier must notify the Department of Revenue, on forms supplied by the department, of a motor vehicle or bus that is disposed of before December 31.

HISTORY: 2000 Act No. 399, Section 3(T)(3), eff August 17, 2000.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Library References

Automobiles 107.

Taxation 2559, 3213.

Westlaw Topic Nos. 48A, 371.

C.J.S. Motor Vehicles Sections 258 to 261, 267 to 272, 304 to 305.

**SECTION 12‑37‑2850.** Assessment of taxes.

Section effective until January 1, 2019. See, also, section 12‑37‑2850 effective January 1, 2019.

The Department of Revenue shall assess annually the taxes due based on the value determined in Section 12‑37‑2820 and an average millage for all purposes statewide for the preceding calendar year and shall publish the average millage for the preceding year by June 1 of each year. The taxes assessed must be paid to the Department of Revenue no later than December 31 of each year and may be made in two equal installments. Distribution of the taxes paid must be made by the State Treasurer’s Office based on the distribution formula contained in Section 12‑37‑2870.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1E; 1998 Act No. 442, Section 12E.

**SECTION 12‑37‑2860.** One‑time fees.

Section effective until January 1, 2019. See, also, section 12‑37‑2860 effective January 1, 2019.

(A) Instead of the property taxes and registration requirements contained in Sections 56‑3‑110 and 56‑3‑700 on semitrailers and trailers of motor carriers as defined in Section 12‑37‑2810, a one‑time fee payable to the Department of Motor Vehicles in the amount of eighty‑seven dollars is due on all semitrailers and trailers currently registered and subsequently on each semitrailer and trailer before being placed in service.

(B) Twelve dollars of the one‑time fee must be distributed to the Department of Revenue and may be retained by the Department of Revenue and expended in budgeted operations to record and administer the fee. The remaining seventy‑five dollars of the fee must be distributed based on the distribution formula contained in Section 12‑37‑2870 and must occur by the fifteenth day of the month following the month in which the fees are collected.

(C) The fee required by this section is due on or before March 31, 1998, for the initial registration.

(D) The Department of Motor Vehicles shall design a permanent tag for display on the exterior of the rear of the trailer or semitrailer in a conspicuous place.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1F; 1998 Act No. 432, Section 12.

**SECTION 12‑37‑2870.** Distribution formula.

Section effective until January 1, 2019. See, also, section 12‑37‑2870 effective January 1, 2019.

The distribution for each county must be determined on the ratio of total federal and state highway miles within each county during the preceding calendar year to the total federal and state highway miles within all counties of this State during the same preceding calendar year. The county must distribute the revenue from the payment‑in‑lieu of taxes received pursuant to this section within thirty days of its receipt to every governmental entity levying a property tax in the manner set forth below. For each governmental entity levying a property tax, the entire assessed value of the taxable property within its boundaries and the county area must be multiplied by the millage rate imposed by the governmental entity. That figure constitutes the numerator for that governmental entity. The total of the numerators for all property tax levying entities within the county area constitutes the denominator. The numerator for each governmental entity must be divided by the denominator. The resulting percentage must be multiplied by the payment‑in‑lieu of tax revenue received pursuant to this section and that amount distributed to the general fund of the appropriate governmental entity. The distribution of taxes and fees paid must be made by the last day of the next month succeeding the month in which the taxes and fees were paid.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1G.

**SECTION 12‑37‑2880.** Ad valorem taxes.

Section effective until January 1, 2019. See, also, section 12‑37‑2880 effective January 1, 2019.

The ad valorem taxes authorized by this article are in lieu of all other ad valorem taxes upon the motor vehicles of motor carriers. The fee‑in‑lieu of property taxes and registration requirements authorized by this article are in lieu of all other ad valorem taxes upon trailers and semitrailers of motor carriers.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1H.

**SECTION 12‑37‑2890.** Suspension of driver’s license for failure to pay motor carrier property tax; penalty for driving with suspended license; reinstatement.

Section omitted by 2017 Act No. 40, Section 8.A, effective January 1, 2019.

(A) Upon request by the Department of Revenue, and after the time period for all appeals of tax due is exhausted, the Department of Motor Vehicles shall suspend the driver’s license and vehicle registration of a person that fails to file or pay a motor carrier property tax on a vehicle, pursuant to this article. The request to suspend must be an electronic notification from the Department of Revenue to the Department of Motor Vehicles. Before notification is sent to the Department of Motor Vehicles, the Department of Revenue shall notify the delinquent taxpayer by certified letter of the pending suspension and of the steps necessary to prevent the suspension from being entered on the taxpayer’s driving and registration records. The department shall allow thirty days for payment of taxes before notifying the Department of Motor Vehicles to suspend the driver’s license and vehicle registration.

(B) Notwithstanding the provisions of Sections 56‑1‑460 and 56‑9‑500, a charge of driving under suspension when the suspension is solely for failure to file or pay a motor carrier property tax or the reinstatement fee required for the property tax does not require proof of financial responsibility. A person is not subject to a custodial arrest solely for being under suspension pursuant to this section. Upon conviction of a violation of this section, the taxpayer is subject to:

(1) for a first offense a fine not to exceed fifty dollars;

(2) for a second offense a fine not to exceed two hundred fifty dollars; and

(3) for a third or subsequent offense under this section, the penalty is a fine not to exceed five hundred dollars or imprisonment not to exceed thirty days, or both.

(C) Notwithstanding the provisions of subsections (A) and (B) of this section or the provisions of Section 56‑1‑460, a charge of driving under suspension issued solely as a result of this section must be dismissed if the taxpayer provides proof on the taxpayer’s court date that the personal property taxes on the vehicle which resulted in the charge being issued have been paid.

(D) Before the reinstatement of a driver’s license or vehicle registration suspended due to a violation of this section, a fee of fifty dollars must be paid to the Department of Motor Vehicles. The Department of Motor Vehicles may retain revenues generated by payment of the reinstatement fees pursuant to this section for use in defraying costs associated with suspension and reinstatement actions pursuant to this section. Fees collected in excess of actual departmental direct costs related to suspension and reinstatement actions pursuant to this section must be deposited to the credit of the general fund of the State at the end of each fiscal year.

HISTORY: 2005 Act No. 161, Section 24, eff June 9, 2005; 2006 Act No. 386, Section 25, eff June 14, 2006.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Library References

Automobiles 106.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 262 to 266, 299 to 302.

ARTICLE 23 [effective January 1, 2019]

Motor Carriers

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

CROSS REFERENCES

Fees for self‑propelled property carrying vehicles, determination of vehicle gross weight, registration of vehicle for payment of one‑half of State’s portion of license fee, see Section 56‑3‑660.

Issuance of tax notices and paid receipts, delegation of collection of taxes, see Section 12‑37‑2650.

Tax year for motor vehicles, see Section 12‑37‑2610.

**SECTION 12‑37‑2810.** Definitions.

Section effective January 1, 2019. See, also, section 12‑37‑2810 effective until January 1, 2019.

As used in this article, unless the context requires otherwise:

(A) “Motor carrier” means a person who owns, controls, operates, manages, or leases a commercial motor vehicle, or bus for the transportation of property or persons in intrastate or interstate commerce except for scheduled intercity bus service and farm vehicles using FM tags as allowed by the Department of Motor Vehicles. A motor carrier is defined further as being a South Carolina‑based International Registration Plan registrant or owning or leasing real property within this State used directly in the transportation of freight or persons.

(B) “Commercial motor vehicle” means a motor propelled vehicle used for the transportation of property on a public highway, except for farm vehicles using FM tags as allowed by the Department of Motor Vehicles.

(C) “Large commercial motor vehicle” means a commercial motor vehicle with a gross vehicle weight of greater than twenty‑six thousand pounds that is registered under the International Registration Plan or used on a highway for the transportation of property.

(D) “Small commercial motor vehicle” means a commercial motor vehicle with a gross vehicle weight of less than or equal to twenty‑six thousand pounds that is registered under the International Registration Plan or used on a highway for the transportation of property.

(E) “Highway” means all public roads, highways, streets, and ways in this State, whether within a municipality or outside of a municipality.

(F) “Person” means any individual, corporation, firm, partnership, company or association, and includes a guardian, trustee, executor, administrator, receiver, conservator, or a person acting in a fiduciary capacity.

(G) “Semitrailers” means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that a part of its weight and of its load rests upon or is carried by another vehicle.

(H) “Trailers” means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(I) “Bus” means every motor vehicle designed for carrying more than sixteen passengers and used for the transportation of persons, for compensation, other than a taxicab or intercity bus.

(J) “South Carolina apportionment factor” means the ratio of miles operated by a fleet of vehicles in South Carolina to the miles operated by the fleet of vehicles everywhere, which is used to apportion the registration fees of the fleet under the International Registration Plan.

HISTORY: 1996 Act No. 461, Section 1; 1998 Act No. 442, Section 12A; 2000 Act No. 399, Section 3(T)(1), eff August 17, 2000; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.A, in (A), substituted “commercial motor vehicle,” for “motor vehicle”; in (B), substituted “Commercial motor vehicle” for “Motor vehicle” and “, except for farm vehicles using FM tags as allowed by the Department of Motor Vehicles” for “with a gross vehicle weight of greater than twenty‑six thousand pounds”; inserted (C) and (D), relating to the definitions of large and small commercial motor vehicles, and redesignated the remaining paragraphs accordingly; and added (J), relating to the definition of the South Carolina apportionment factor.

CROSS REFERENCES

Establishment of system of registration of motor vehicles on monthly basis, assignment of annual registration periods, see Section 56‑3‑376.

Fees for self‑propelled property carrying vehicles, determination of vehicle gross weight, registration of vehicle for payment of one‑half of State’s portion of license fee, see Section 56‑3‑660.

Issuance of tax notices and paid receipts, delegation of collection of taxes, see Section 12‑37‑2650.

Motor carriers exempt from ad valorem taxes, see Section 12‑37‑2600.

Tax year for motor vehicles, see Section 12‑37‑2610.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Automobiles and Other Motor Vehicles Section 54, Exemptions from Requirements; Special Permits.

**SECTION 12‑37‑2815.** Provisions not applicable to small commercial motor vehicles.

Section effective January 1, 2019.

The provisions contained in this article do not apply to small commercial motor vehicles that must be licensed, registered, and pay ad valorem taxes as otherwise provided by law.

HISTORY: 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

**SECTION 12‑37‑2820.** Assessment of motor vehicles.

Section effective January 1, 2019. See, also, Section 12‑37‑2820 effective until January 1, 2019.

(A) The Department of Motor Vehicles annually shall assess, equalize, and apportion the valuation of all large commercial motor vehicles and buses of motor carriers registered for use in this State under the International Registration Plan or otherwise pursuant to Section 56‑3‑190. The valuation must be based on fair market value for the motor vehicles and an assessment ratio of nine and one‑half percent as provided by Section 12‑43‑220(g). Fair market value is determined by depreciating the gross capitalized cost of each motor carrier’s large commercial motor vehicle or bus by an annual percentage depreciation allowance down to ten percent of the cost as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
|  | (1) Year One | — | .90 |
|  | (2) Year Two | — | .80 |
|  | (3) Year Three | — | .65 |
|  | (4) Year Four | — | .50 |
|  | (5) Year Five | — | .35 |
|  | (6) Year Six | — | .25 |
|  | (7) Year Seven | — | .20 |
|  | (8) Year Eight | — | .15 |
|  | (9) Year Nine | — | .10 |

(B) “Gross capitalized cost”, as used in this section, means the original cost upon acquisition for income tax purposes, not to include taxes, interest, or cab customizing. However, for a motor vehicle which is fueled wholly or partially by alternative fuel as defined in Section 12‑28‑110(1), and that was acquired after 2015 but before 2026, the gross capitalized cost is reduced by the differential costs of a comparable diesel or gasoline powered vehicle, not to exceed thirty percent of the total acquisition cost of the motor vehicle. This reduction shall apply for the first ten property tax years for which tax is due following the acquisition of the vehicle.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1B; 1998 Act No. 442, Section 12B; 2016 Act No. 269 (S.1122), Section 2.A, eff June 6, 2016; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2016 Act No. 269, Section 2.B, provides as follows:

“B. This SECTION [amending (B)] first applies to property tax years beginning after 2015.”

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2016 Act No. 269, Section 2.A, in (B), added the last two sentences, relating to alternative fuel.

2017 Act No. 40, Section 8.A, in (A), substituted “Department of Motor Vehicles” for “Department of Revenue”, “large commercial motor vehicles and buses of motor carriers registered for use in this State under the International Registration Plan or otherwise pursuant to Section 56‑3‑190” for “motor vehicles of motor carriers”, and “motor carrier’s large commercial motor vehicle or bus” for “motor vehicle”.

Library References

Taxation 2244, 2559.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 200, 213.

**SECTION 12‑37‑2830.** Determination of value according to apportionment factor.

Section effective January 1, 2019. See, also, section 12‑37‑2830 effective until January 1, 2019.

The value of a motor carrier’s large commercial motor vehicles and buses subject to road use fees in this State must be determined according to the South Carolina apportionment factor for the fleet of which the commercial vehicle is a part.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1C; 1998 Act No. 442, Section 12C; 1999 Act No. 100, Part II, Section 66; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.A, amended the section, providing that certain vehicles are assessed and apportioned based on a road use fee instead of property taxes.

Library References

Taxation 2559.

Westlaw Topic No. 371.

**SECTION 12‑37‑2840.** Road use fees due at the same time as registration fees.

Section effective January 1, 2019. See, also, section 12‑37‑2840 effective until January 1, 2019.

A motor carrier registering a large commercial motor vehicle or bus must pay the road use fee due on the vehicle at the time and in the manner the person pays the registration fees on the vehicle pursuant to Section 56‑3‑660. A person choosing to pay registration fees on a large commercial motor vehicle or bus in quarterly installments pursuant to Section 56‑3‑660 also must pay the road use fee on the vehicle in the same quarterly installments.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1D; 1998 Act No. 442, Section 12D; 2000 Act No. 399, Section 3(T)(2), eff August 17, 2000; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.A, rewrote the section, providing that the road use fee is due at the same time as registration fees.

CROSS REFERENCES

Civil penalties and damages applicable to certain return or statement filings, see Section 12‑54‑43.

Criminal penalties applicable to certain return or statement filings, see Section 12‑54‑44.

Library References

Automobiles 107.

Taxation 2493.

Westlaw Topic Nos. 48A, 371.

C.J.S. Motor Vehicles Sections 258 to 261, 267 to 272, 304 to 305.

C.J.S. Taxation Sections 618 to 625.

United States Supreme Court Annotations

State tax or fee imposed for motor carrier’s use of highways as violating commerce clause (Article 1, Section 8, clause 3) of Federal Constitution—Supreme Court cases. 97 L Ed 2d 843.

**SECTION 12‑37‑2842.** Registration of vehicles or buses with Department; notification to Department of disposition of vehicles or buses.

Section omitted by 2017 Act No. 40, Section 8.A, effective January 1, 2019.

(A) The Department of Motor Vehicles, at the time of first registration by a motor carrier as defined in this article, shall notify the registrant of the Department of Revenue’s registration and filing requirements and supply the required registration forms.

(B) The motor carrier must register with the Department of Revenue within thirty days following the year in which the vehicle or bus was first registered for operation in South Carolina.

(C) A motor carrier must notify the Department of Revenue, on forms supplied by the department, of a motor vehicle or bus that is disposed of before December 31.

HISTORY: 2000 Act No. 399, Section 3(T)(3), eff August 17, 2000.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Library References

Automobiles 107.

Taxation 2559, 3213.

Westlaw Topic Nos. 48A, 371.

C.J.S. Motor Vehicles Sections 258 to 261, 267 to 272, 304 to 305.

**SECTION 12‑37‑2850.** Assessment of road use fees; distribution of fees.

Section effective January 1, 2019. See, also, section 12‑37‑2850 effective until January 1, 2019.

Beginning on January 1, 2019, the Department of Motor Vehicles shall assess annually the road use fee due on large commercial motor vehicles and buses based on the value determined in Section 12‑37‑2820 and an average millage for all purposes statewide for the preceding calendar year and shall publish the average millage for the preceding year by July first of each year. The Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee by June first of each year for the following calendar year. The road use fee assessed must be paid to the Department of Motor Vehicles, in addition to the registration fees required pursuant to Sections 56‑3‑660 and 56‑3‑670, at the time and in the manner that the registration fees on the vehicle are paid pursuant to Sections 56‑3‑660 and 56‑3‑670. Distribution of the fees paid must be made by the Office of the State Treasurer based on the distribution formula provided in Sections 12‑37‑2865 and 12‑37‑2870.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1E; 1998 Act No. 442, Section 12E; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.A, rewrote the section, providing that road use fees shall be assessed annually, and providing for the distribution of fees paid.

CROSS REFERENCES

Distribution of revenues from road use and one‑time fee assessments, see Section 12‑37‑2865.

Library References

Taxation 2559.

Westlaw Topic No. 371.

**SECTION 12‑37‑2860.** Property tax exemptions; one‑time fees.

Section effective January 1, 2019. See, also, section 12‑37‑2860 effective until January 1, 2019.

(A) In addition to the property tax exemptions allowed pursuant to Section 12‑37‑220, one hundred percent of the fair market value of semitrailers and trailers as defined in Section 12‑37‑2810, and commonly used in combination with a large commercial motor vehicle, as defined pursuant to Section 12‑37‑2810, is exempt from property tax.

(B) Instead of any property tax and the registration requirements provided in Sections 56‑3‑110 and 56‑3‑700 on semitrailers and trailers of motor carriers as defined in Section 12‑37‑2810, and commonly used in combination with a large commercial motor vehicle, a one‑time fee payable to the Department of Motor Vehicles in the amount of eighty‑seven dollars is imposed on all semitrailers and trailers currently registered and subsequently on each semitrailer and trailer before being placed in service.

(C) The fee imposed pursuant to subsection (B) and the registration requirements of this article are in lieu of any local road use fee, registration fees, or any other vehicle‑related fee imposed by a political subdivision of this State on a trailer or semitrailer.

(D) Twelve dollars of the one‑time fee must be distributed to the Department of Motor Vehicles and may be retained by the Department of Motor Vehicles and expended in budgeted operations to record and administer the fee. The remaining seventy‑five dollars of the fee must be distributed based on the distribution formula provided in Sections 12‑37‑2865 and 12‑37‑2870, and must occur by the fifteenth day of the month following the month in which the fees are collected.

(E) The Department of Motor Vehicles shall design a permanent tag for display on the exterior of the rear of the trailer or semitrailer in a conspicuous place.

(F) If the apportioned registration fees of a large commercial motor vehicle or bus and the road use fees for large commercial motor vehicles required under this chapter are equal to or exceed four hundred dollars, the fees may be remitted to the Department of Motor Vehicles quarterly provided that each installment is made online. A motor carrier who fails to make a quarterly payment on a timely basis may no longer make installment payments and must remit to the department the balance of the fees owed for any previous calendar year before the Department of Motor Vehicles will renew registration for the current calendar year. A motor carrier that opts out of installment payments must make full payment of fees at the time of registration.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1F; 1998 Act No. 432, Section 12; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Code Commissioner’s Note

Pursuant to the direction to the Code Commissioner in 2003 Act No. 51, Section 18, “Department of Public Safety” was changed to “Department of Motor Vehicles” in subsections (A) and (D).

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.A, rewrote the section, providing that one hundred percent of the fair market value of semitrailers and trailers is exempt from property tax.

CROSS REFERENCES

Distribution of revenues from road use and one‑time fee assessments, see Section 12‑37‑2865.

Library References

Automobiles 97.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307 to 309.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Automobiles and Other Motor Vehicles Section 54, Exemptions from Requirements; Special Permits.

**SECTION 12‑37‑2865.** Distribution of revenues from road use and one‑time fee assessments.

Section effective January 1, 2019.

Seventy‑five percent of the revenues from the road use fee assessed pursuant to Section 12‑37‑2850, and the one‑time fee assessed pursuant to Section 12‑37‑2860 must be distributed by the State Treasurer as provided in Section 12‑37‑2870. Distributions must be made by the last day of the next month succeeding the month in which the fee is paid. The remaining twenty‑five percent must be credited to the Infrastructure Maintenance Trust Fund to be used to finance expansion and improvements to existing mainline interstates.

HISTORY: 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

CROSS REFERENCES

Property tax exemptions, one‑time fees, see Section 12‑37‑2860.

**SECTION 12‑37‑2870.** Distribution formula.

Section effective January 1, 2019. See, also, section 12‑37‑2870 effective until January 1, 2019.

The distribution of the fee revenues required to be distributed pursuant to Section 12‑37‑2865 for each county must be determined on the ratio of total federal and state highway miles within each county during the preceding calendar year to the total federal and state highway miles within all counties of this State during the same preceding calendar year. The county must distribute the revenue from the payment‑in‑lieu of taxes received pursuant to this section within thirty days of its receipt to every governmental entity levying a property tax in the manner set forth below. For each governmental entity levying a property tax, the entire assessed value of the taxable property within its boundaries and the county area must be multiplied by the millage rate imposed by the governmental entity. That figure constitutes the numerator for that governmental entity. The total of the numerators for all property tax levying entities within the county area constitutes the denominator. The numerator for each governmental entity must be divided by the denominator. The resulting percentage must be multiplied by the fee revenue received pursuant to this section and that amount distributed to the general fund of the appropriate governmental entity. The distribution of taxes and fees paid must be made by the last day of the next month succeeding the month in which the taxes and fees were paid.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1G; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.A, in the first sentence, inserted “of the fee revenues required to be distributed pursuant to Section 12‑37‑2865”, and, in the seventh sentence, substituted “fee revenue” for “payment‑in‑lieu of tax revenue”.

CROSS REFERENCES

Distribution of revenues from road use and one‑time fee assessments, see Section 12‑37‑2865.

Library References

Taxation 3235.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1786, 1792, 1797 to 1800, 1823.

**SECTION 12‑37‑2880.** Fair market value of large commercial motor vehicles subject to road use fee; certain vehicles and buses exempt from certain taxes.

Section effective January 1, 2019. See, also, section 12‑37‑2880 effective until January 1, 2019.

(A) In addition to the property tax exemptions allowed pursuant to Section 12‑37‑220, one hundred percent of the fair market value of all large commercial motor vehicles and buses registered for use in this State under the International Registration Plan or otherwise pursuant to Section 56‑3‑190, is exempt from property tax and is instead subject to the road use fee imposed pursuant to this article.

(B) The road use fee imposed by this article is in lieu of all ad valorem taxes upon large commercial motor vehicles or buses, and any road use or other vehicle‑related fees imposed by a political subdivision of this State if registered for use in this State under the International Registration Plan.

HISTORY: 1996 Act No. 461, Section 1; 1997 Act No. 125, Section 1H; 2017 Act No. 40 (H.3516), Section 8.A, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.A, rewrote the section, providing that the road use fee imposed by this article is in lieu of all ad valorem taxes upon large commercial motor vehicles.

Library References

Taxation 2559.

Westlaw Topic No. 371.

**SECTION 12‑37‑2890.** Suspension of driver’s license for failure to pay motor carrier property tax; penalty for driving with suspended license; reinstatement.

Section omitted by 2017 Act No. 40, Section 8.A, effective January 1, 2019.

(A) Upon request by the Department of Revenue, and after the time period for all appeals of tax due is exhausted, the Department of Motor Vehicles shall suspend the driver’s license and vehicle registration of a person that fails to file or pay a motor carrier property tax on a vehicle, pursuant to this article. The request to suspend must be an electronic notification from the Department of Revenue to the Department of Motor Vehicles. Before notification is sent to the Department of Motor Vehicles, the Department of Revenue shall notify the delinquent taxpayer by certified letter of the pending suspension and of the steps necessary to prevent the suspension from being entered on the taxpayer’s driving and registration records. The department shall allow thirty days for payment of taxes before notifying the Department of Motor Vehicles to suspend the driver’s license and vehicle registration.

(B) Notwithstanding the provisions of Sections 56‑1‑460 and 56‑9‑500, a charge of driving under suspension when the suspension is solely for failure to file or pay a motor carrier property tax or the reinstatement fee required for the property tax does not require proof of financial responsibility. A person is not subject to a custodial arrest solely for being under suspension pursuant to this section. Upon conviction of a violation of this section, the taxpayer is subject to:

(1) for a first offense a fine not to exceed fifty dollars;

(2) for a second offense a fine not to exceed two hundred fifty dollars; and

(3) for a third or subsequent offense under this section, the penalty is a fine not to exceed five hundred dollars or imprisonment not to exceed thirty days, or both.

(C) Notwithstanding the provisions of subsections (A) and (B) of this section or the provisions of Section 56‑1‑460, a charge of driving under suspension issued solely as a result of this section must be dismissed if the taxpayer provides proof on the taxpayer’s court date that the personal property taxes on the vehicle which resulted in the charge being issued have been paid.

(D) Before the reinstatement of a driver’s license or vehicle registration suspended due to a violation of this section, a fee of fifty dollars must be paid to the Department of Motor Vehicles. The Department of Motor Vehicles may retain revenues generated by payment of the reinstatement fees pursuant to this section for use in defraying costs associated with suspension and reinstatement actions pursuant to this section. Fees collected in excess of actual departmental direct costs related to suspension and reinstatement actions pursuant to this section must be deposited to the credit of the general fund of the State at the end of each fiscal year.

HISTORY: 2005 Act No. 161, Section 24, eff June 9, 2005; 2006 Act No. 386, Section 25, eff June 14, 2006.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Library References

Automobiles 106.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 262 to 266, 299 to 302.

ARTICLE 25

South Carolina Real Property Valuation Reform Act

CROSS REFERENCES

County equalization and reassessment, treatment of agricultural real property, mobile home and lessee improvements to real property, off‑premises outdoor advertising signs, see Section 12‑43‑230.

**SECTION 12‑37‑3110.** Citation of article.

This article may be cited as the “South Carolina Real Property Valuation Reform Act”.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007).

**SECTION 12‑37‑3120.** Interpretation with other laws.

The value of real property for purposes of the imposition of the property tax is subject to the provisions of this article. Except where inconsistent, the provisions of this article are in addition to and not in lieu of other provisions of law applicable to the valuation of real property for purposes of the property tax. If the provisions of this article are inconsistent with other provisions of law, the provisions of this article apply.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007).

**SECTION 12‑37‑3130.** Definitions.

As used in this article:

(1) “Additions” or “improvements” mean an increase in the value of an existing parcel of real property because of:

(a) new construction;

(b) reconstruction;

(c) major additions to the boundaries of the property or a structure on the property;

(d) remodeling; or

(e) renovation and rehabilitation, including installation.

Additions or improvements do not include minor construction or ongoing maintenance and repair of existing structures. The repair or reconstruction of a structure damaged or destroyed by a disaster, to include, but not limited to, construction defects, defective materials, fire, wind, hail, flood, and acts of God, is not an addition or improvement to the extent that the structure as repaired or reconstructed is similar in size, utility, and function of the structure damaged or destroyed, and the rebuilding or reconstruction is begun within eight years after determination of the damage or destruction. Construction of facilities in a home that make the home handicap accessible is not an addition or improvement if the utility and function of the structure remains unchanged. The installation of a fire sprinkler system in a commercial or residential structure when the installation is not required by law, regulation, or code is not an addition or improvement if the utility and function of the structure remains unchanged.

(2) “Adjustments” mean changes in fair market value as determined in periodic countywide appraisal and equalization programs conducted pursuant to Section 12‑43‑217 as allowed pursuant to Section 6, Article X of the Constitution of this State, but adjustments are subject to the limits on increases provided in that Section 6 and as further provided in Section 12‑37‑3140(B).

(3) “Appraisal” or “appraised” means the process provided by law for the property tax assessor to determine the fair market value of real property and additions and improvements to real property.

(4) “Assessable transfer of interest” means a transfer of an existing interest in real property that subjects the real property to appraisal. For purposes of this definition, an existing interest in real property includes life estate interests.

(5) RESERVED

(6) “Commonly controlled” means persons having relationships as described in Section 267(b) of the Internal Revenue Code as defined in Section 12‑6‑40(A).

(7) “Conveyance” means the date of the transfer of an assessable transfer of interest in real property. Failure to record legal instruments evidencing a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

(8) “Property tax assessor” means the county assessor, an assessor appointed to handle multiple county assessments pursuant to an intergovernmental agreement, or the Department of Revenue, as applicable.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Section 7.A, eff April 26, 2007, applicable for property tax years beginning after 2006; 2008 Act No. 357, Section 3.A, eff June 25, 2008, applicable for taxable years beginning after 2007.

Editor’s Note

2007 Act No. 57, Section 7.D, provides as follows:

“Notwithstanding the general effective date of this act [June 6, 2007], this section takes effect upon ratification of an amendment to the Constitution of this State proposed pursuant to Joint Resolution 402 of 2006 [ratified April 26, 2007] and applies for property tax years beginning after 2006.”

**SECTION 12‑37‑3135.** ATI fair market value exemption from property tax; requirements.

(A) As used in this section:

(1) “ATI fair market value” means the fair market value of a parcel of real property and any improvements thereon as determined by appraisal at the time the parcel last underwent an assessable transfer of interest.

(2) “Current fair market value” means the fair market value of a parcel of real property as reflected on the books of the property tax assessor for the current property tax year.

(3) “Exemption value” means the ATI fair market value when reduced by the exemption allowed by this section.

(4) “Fair market value” means the fair market value of a parcel of real property and any improvements thereon as determined by the property tax assessor by an initial appraisal, by an appraisal at the time the parcel undergoes an assessable transfer of interest, and as periodically reappraised pursuant to Section 12‑43‑217.

(5) “Property tax value” means fair market value as it may be adjusted downward to reflect the limit imposed pursuant to Section 12‑37‑3140(B).

(B)(1) When a parcel of real property and any improvements thereon subject to the six percent assessment ratio provided pursuant to Section 12‑43‑220(e) and which is currently subject to property tax undergoes an assessable transfer of interest after 2010, there is allowed an exemption from property tax of an amount of the ATI fair market value of the parcel as determined in the manner provided in item (2) of this subsection. Calculation of property tax value for such parcels is based on exemption value. The exemption allowed by this section applies at the time the ATI fair market value first applies.

(2)(a) The exemption allowed by this section is an amount equal to twenty‑five percent of ATI fair market value of the parcel. However, no exemption value calculated pursuant to this section may be less than current fair market value of the parcel.

(b) If the ATI fair market value of the parcel is less than the current fair market value, the exemption otherwise allowed pursuant to this section does not apply and the ATI fair market value applies as provided pursuant to Section 12‑37‑3140(A)(1)(b).

(C) The exemption allowed in this section does not apply unless the owner of the property, or the owner’s agent, notifies the county assessor that the property will be subject to the six percent assessment ratio provided pursuant to Section 12‑43‑220(e) before January thirty‑first for the tax year for which the owner first claims eligibility for the exemption. No further notifications are necessary from the current owner while the property remains subject to the six percent assessment ratio.

HISTORY: 2011 Act No. 57, Section 1, eff June 14, 2011.

CROSS REFERENCES

Roll‑back tax for open space, see Section 12‑43‑222.

South Carolina Hurricane Damage Mitigation program, grant eligibility and use, see Section 38‑75‑485.

Library References

Taxation 2515, 2518.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 582, 584 to 585, 590 to 593.

**SECTION 12‑37‑3140.** Determining fair market value.

(A)(1) For property tax years beginning after 2006, the fair market value of real property is its fair market value applicable for the later of:

(a) the base year, as defined in subsection (C) of this section;

(b) December thirty‑first of the year in which an assessable transfer of interest has occurred;

(c) as determined on appeal; or

(d) as it may be adjusted as determined in a countywide reassessment program conducted pursuant to Section 12‑43‑217, but limited to increases in such value as provided in subsection (B) of this section.

(2) To the fair market value of real property as determined at the time provided in item (1) of this subsection, there must be added the fair market value of subsequent improvements and additions to the property.

(B) Any increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12‑43‑217 is limited to fifteen percent within a five‑year period to the otherwise applicable fair market value. This limit must be calculated on the land and improvements as a whole. However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor do they apply to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax.

(C) For purposes of determining a “base year” fair market value pursuant to this section, the fair market value of real property is its appraised value applicable for property tax year 2007.

(D) Real property valued by the unit valuation concept is excluded from the limits provided pursuant to subsection (B) of this section.

(E) Value attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year except as provided pursuant to Section 12‑37‑670(B).

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Section 7.B, eff April 26, 2007, applicable for property tax years beginning after 2006; 2010 Act No. 275, Section 2, eff June 16, 2010.

Editor’s Note

2007 Act No. 57, Section 7.D, provides as follows:

“Notwithstanding the general effective date of this act [June 6, 2007], this section takes effect upon ratification of an amendment to the Constitution of this State proposed pursuant to Joint Resolution 402 of 2006 [ratified April 26, 2007] and applies for property tax years beginning after 2006.”

2010 Act No. 275, Section 3, provides as follows:

“This act takes effect upon approval by the Governor, and shall apply to real property transfers after 2009. No refund is allowed on account of values adjusted by the changes to the provisions of Section 12‑37‑3150.”

CROSS REFERENCES

Assessable transfer of interest (ATI) fair market value exemption from property tax, requirements, see Section 12‑37‑3135.

Real property taxation and valuation, boundary clarification, see Section 12‑37‑140.

Library References

Taxation 2515, 2518.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 582, 584 to 585, 590 to 593.

RESEARCH REFERENCES

ALR Library

143 ALR, Federal 347 , Validity, Construction, and Effect of Section 102(A) of Railroad Revitalization and Regulatory Reform Act (49 U.S.C.A. Section 11501).

Attorney General’s Opinions

Section 12‑37‑3140 defines the times at which the fair market value of real property will be determined for the purpose of imposing an ad valorem tax. Assessors lack the authority to defy the clear mandates of statute in order to accommodate property owners who suffer a decrease in the value of their property. S.C. Op.Atty.Gen. (June 7, 2012) 2012 WL 2364244.

Neither Section 12‑37‑930 nor Section 12‑37‑3140 dictates use of the market/sales comparison approach. S.C. Op.Atty.Gen. (Oct. 20, 2011) 2011 WL 5304082.

Section 12‑37‑3140(B) is concerned with imposing a limit on increases in fair market value, and the reference to land and improvements as a whole is tied explicitly to the issue of how this limit should be calculated. S.C. Op.Atty.Gen. (Oct. 20, 2011) 2011 WL 5304082.

Section 12‑37‑3140(B) limits the increase in value attributable to a countywide appraisal to fifteen percent above the value of the property on December 31 of the fourth year of the reassessment cycle, including any additions or improvements subject to tax on or before that date. However, the value of any improvements first subject to tax in the fifth year of the cycle should be excluded from both the calculation and the restriction of the fifteen percent cap. S.C. Op.Atty.Gen. (Oct. 20, 2011) 2011 WL 5304082.

Discussion of how fair market value is calculated for real estate under the jurisdiction of the county assessors. S.C. Op.Atty.Gen. (June 9, 2010) 2010 WL 2678685.

If a county elects to postpone the implementation of newly reassessment values under section 12‑43‑217(B), for purposes of the “base year” referred to in section 12‑37‑3140, the fair market values applicable for property tax year 2007 are those values employed for that year despite the reassessment. S.C. Op.Atty.Gen. (Nov. 29, 2006) 2006 WL 3522435.

Notes of Decisions

In general 1

1. In general

Railroad’s action alleging that South Carolina’s property tax scheme discriminated against railroads by excluding railroad property from benefit of 15% cap to increases in appraised values under South Carolina Real Property Valuation Reform Act (RPVRA) was challenge to a tax within meaning of catch‑all subsection of Railroad Revitalization and Regulatory Reform Act (4‑R Act) prohibiting states from imposing “another tax that discriminates against a rail carrier,” even if assessment scheme under RPVRA did not itself impose any tax, since resulting property taxes imposed on railroad were based on assessed value of its property. CSX Transportation, Incorporated v. South Carolina Department of Revenue (C.A.4 (S.C.) 2017) 851 F.3d 320. Taxation 2245

Catch‑all subsection of Railroad Revitalization and Regulatory Reform Act (4‑R Act) prohibiting states from imposing “another tax that discriminates against a rail carrier,” rather than subsection prohibiting differences in ratios between tax‑assessed and market value of railroad and other properties, was proper vehicle for railroad to challenge South Carolina’s allegedly discriminatory property tax scheme that excluded railroad property from benefit of 15% cap to increases in appraised values under South Carolina Real Property Valuation Reform Act (RPVRA), since railroad’s allegations were based on allegedly less favorable treatment, rather than on fact that its property was assessed at higher percentage of its true market value. CSX Transportation, Incorporated v. South Carolina Department of Revenue (C.A.4 (S.C.) 2017) 851 F.3d 320. Taxation 2245; Taxation 2560

**SECTION 12‑37‑3150.** Determining when to appraise parcel of real property.

(A) For purposes of determining when a parcel of real property must be appraised, an assessable transfer of interest in real property includes, but is not limited to, the following:

(1) a conveyance by deed;

(2) a conveyance by land contract;

(3) a conveyance to a trust, except if:

(a) the settlor or the settlor’s spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor’s spouse, or both; or

(b) the settlor or the settlor’s spouse, or both, conveys property subject to the special four percent assessment ratio pursuant to Section 12‑43‑220(c) and the sole present beneficiary or beneficiaries is the child or children of the settlor or the settlor’s spouse, but a subsequent conveyance of this real property by the beneficiary child or children is not exempt from the provisions of this section;

(4) a conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both;

(5) a change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary;

(6) a conveyance by distribution under a will or by intestate succession, except if:

(a) the distributee is the decedent’s spouse; or

(b) the distributee is the child or children of the decedent, the decedent did not have a spouse at the time of the decedent’s death, and the property is subject to the special four percent assessment ratio pursuant to Section 12‑43‑220(c), but a subsequent conveyance of this real property by the distributee child or children is not exempt from the provisions of this section;

(7) a conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than twenty years or the lease grants the lessee a bargain purchase option. As used in this item, “bargain purchase option” means the right to purchase the property at the termination of the lease for not more than eighty percent of the property’s true cash value at the termination of the lease. This item does not apply to personal property or that portion of the property not subject to the leasehold interest conveyed;

(8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty‑five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. This provision does not apply to transfers that are not subject to federal income tax, as provided in subsection (B)(1), including, but not limited to, transfers of interests to spouses. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty‑five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item. Failure to provide this notice or failure to provide accurate information of a transaction required to be reported by this subitem subjects the property to a civil penalty of not less than one hundred nor more than one thousand dollars as determined by the assessor. This penalty is enforceable and collectible as property tax and is in addition to any other penalties that may apply. Failure to provide this notice is a separate offense for each year after the notice was required;

(9) a change of use of agricultural real property which subjects it to the rollback tax;

(10) a change of use of real property when classification of property changes as a result of a local zoning ordinance change; or

(11) the passage of twenty years since the later of the base year or the last assessable transfer of interest for real property owned by a publicly‑held entity whose stock, shares, or other ownership interests are traded on a regulated exchange, a pension fund, or other similar entity.

An assessable transfer of interest resulting in the appraisal required pursuant to this article occurs at the time of execution of the instruments directly resulting in the transfer of interest and without regard as to whether or not the applicable instruments are recorded. Failure to record instruments resulting in a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

(B) An assessable transfer of interest does not include:

(1) transfers not subject to federal income tax in the following circumstances:

(a) 1033 (Conversions‑Fire and Insurance Proceeds to Rebuild);

(b) 1041 (Transfers of Property Between Spouses or Incident to Divorce);

(c) 351 (Transfer to a Corporation Controlled by Transferor);

(d) 355 (Distribution by a Controlled Corporation);

(e) 368 (Corporate Reorganizations); or

(f) 721 (Nonrecognition of Gain or Loss on a Contribution to a Partnership).

Number references in the above subitems are to sections of the Internal Revenue Code of 1986, as defined in Section 12‑6‑40;

(2) a transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease;

(3) a transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture, until the redemption period has expired;

(4) a transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes;

(5) a conveyance to a trust if the settlor or the settlor’s spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor’s spouse, or both;

(6) a transfer for security or an assignment or discharge of a security interest;

(7) a transfer of real property or other ownership interests among members of an affiliated group. As used in this item, “affiliated group” is as defined in Section 1504 of the Internal Revenue Code as defined in Section 12‑6‑40. Upon request of the applicable property tax assessor, a corporation shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B);

(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B);

(9) a transfer of an interest in a timeshare unit by deed or lease;

(10) a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty‑five year period, is not more than fifty percent of the entire fee simple title to the real estate;

(11) a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12‑2‑25(B)(1);

(12) a conveyance, assignment, release, or modification of an easement, including, but not limited to:

(a) a conservation easement, as defined in Chapter 8, Title 27;

(b) a utility easement; or

(c) an easement for ingress, egress, or regress;

(13) a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line;

(14) the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same; or

(15) a transfer of a fractional interest between family members for zero monetary consideration, or a de minimis monetary consideration, whereby both the grantor and the grantee owned an interest in the property prior to the transfer. For purposes of this item, a family member includes a spouse, parent, brother, sister, child, grandparent, or grandchild.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Sections 7.C.1 and 7.C.2, eff April 26, 2007, applicable for property tax years beginning after 2006; 2010 Act No. 275, Sections 1.A, 1.B, 1.C, 1.D, eff June 16, 2010; 2012 Act No. 179, Section 4, eff May 25, 2012.

Editor’s Note

2007 Act No. 57, Section 7.D, provides as follows:

“Notwithstanding the general effective date of this act [June 6, 2007], this section takes effect upon ratification of an amendment to the Constitution of this State proposed pursuant to Joint Resolution 402 of 2006 [ratified April 26, 2007] and applies for property tax years beginning after 2006.”

2010 Act No. 275, Section 3,provides:

“This act takes effect upon approval by the Governor, and shall apply to real property transfers after 2009. No refund is allowed on account of values adjusted by the changes to the provisions of Section 12‑37‑3150.”

2012 Act No. 179, Section 5, provides as follows:

“This act takes effect upon approval by the Governor and applies to property tax years beginning after 2011.”

CROSS REFERENCES

Classifications shall be equal and uniform, particular classifications and assessment ratios, procedures for claiming certain classifications, roll‑back taxes, see Section 12‑43‑220.

Library References

Taxation 2443.

Westlaw Topic No. 371.

C.J.S. Taxation Section 539.

**SECTION 12‑37‑3160.** Promulgation of regulations; circumstances constituting change in beneficial ownership; certification of details of property ownership; penalties for falsification.

(A) The Department of Revenue may promulgate regulations to implement this article, including, without limitation, providing for those circumstances that constitute a change in the beneficial ownership of real property or an assessable transfer of interest not evidenced by transfer of fee simple title. The department shall examine the substance, rather than merely the form of the transfer, and related and surrounding transactions, and may use the step transaction, economic reality, quid pro quo, personal benefit, and other judicially developed doctrines in determining whether the requisite assessable transfer of interest has occurred.

(B)(1) Except as provided pursuant to item (2) of this subsection, the county assessor annually shall send to each real property owner of record, or the owner’s agent of record, to the address of record, a certificate prescribed by the Department of Revenue which must be signed and returned by the property owner or the owner’s agent certifying details of the ownership of the property. If the owner or owner’s agent knowingly falsifies any detail on the certificate, then the owner or owner’s agent is subject to a civil penalty imposed by the Department of Revenue, the county assessor, or an assessor appointed to handle multiple county assessments pursuant to an intergovernmental agreement, as applicable. The amount must not be less than twice the taxes lawfully due on the property or more than three times the taxes lawfully due on the property. This civil penalty is enforceable and collectable in the same manner as property tax.

(2) The annual certificate requirement provided pursuant to item (1) of this subsection does not apply to a real property owner who is a natural person. However, the assessor periodically may send certificates to natural persons subject to the same requirements provided pursuant to item (1) of this subsection.

(C) For purposes of this section, a “natural person” is an individual or group of individuals who directly owns real property outside of any legal entity. A natural person does not include a trustee, agent, officer, or member of a legal entity which has an ownership interest in real property. A legal entity includes, but is not limited to, a corporation, partnership, limited liability company, unincorporated association, or trust.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Section 8, eff June 6, 2007.

Library References

Taxation 2220, 3215.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 85, 1724.

**SECTION 12‑37‑3170.** Effect on valuation of agricultural property.

(A) Nothing in this article affects the provisions of Section 12‑43‑220(d) that define and apply to “fair market value for agricultural purposes” for real property in agricultural use.

(B) Except as provided in Section 12‑37‑3150(9), this article does not affect the eligibility requirements for agricultural use or the imposition of rollback taxes when real property is changed from agricultural use.

(C) Nothing in this article affects the appropriate methods of appraising real property for purposes of the property tax by county assessors, assessors appointed to handle multiple county assessments pursuant to an intergovernmental agreement, and officials of the Department of Revenue, as applicable.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007).

Library References

Taxation 2523.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 596 to 598.