

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 85-1441-107

December 16, 1985

SUBJECT: Taxation & Revenue - Municipal Exemption Of
New Manufacturing Plants And Additions To
Existing Plants.

SYLLABI: A municipality cannot limit an exemption to
new manufacturing establishments or additions
to existing manufacturing establishments.

A new manufacturing establishment or
additions to existing manufacturing
establishments are not deprived of the
exemption provided by Article X, § 3(g) and §
12-37-220A(6) because the same are situate
within a tax increment financing area.

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FROM: Joe L. Allen, Jr. *JAL*
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QUESTIONS:

1. May the municipal exemption for manufacturing plants be
for some portion of the taxes less than 100% of the taxes?
That is, may the exemption provide for a 50% exemption of
the new manufacturer's ad valorem taxes?

2. May a municipal ordinance that provides for ad valorem
tax exemption for new manufacturers exclude from the ex-
emption new manufacturers located within the tax district of
a tax increment financing project?

APPLICABLE LAW: Article X, § 3(g), as amended, Article X,
§ 14, South Carolina Constitution and Chapter 6 of Title 31,
South Carolina Code of Laws, 1976.

DISCUSSION - Question 1:

The amendment added to the Article an exemption from municipi-
pal taxation for new manufacturing plants and additions to
existing manufacturing plants. The pertinent language is
that:

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"Municipal governing bodies may by ordinance exempt from municipal ad valorem taxation for not more than five years all new manufacturing establishments located in any of the municipalities of this state after July 1, 1985 and all additions to the existing manufacturing establishments * * * located in any of the municipalities of this state costing fifty thousand dollars or more made after July 1, 1985. * * *."

The language is that the municipality may exempt all new manufacturing establishments and all additions to existing manufacturing establishments. The discretion left to the city is to exempt all or to grant no exemption. The provision does not provide for a partial exemption.

CONCLUSION:

A municipality cannot limit an exemption to new manufacturing establishments or additions to existing manufacturing establishments.

DISCUSSION - Question 2:

Article X, § 14 provides that a municipality may incur indebtedness payable solely from a revenue-producing project. The General Assembly by Act 452, Acts of 1984, now codified in Chapter 6 of Title 31, authorized a municipality to incur such an indebtedness. The same is to be repaid by the increase in tax revenue within the area caused by the improvements (tax increment financing plan).

We do not find, however, any intent in Article X, § 14 to nullify the exemption granted by Article X, § 3(g). It is well settled that all provisions are to be considered and if possible effect given to all.

"The effect of a particular constitutional provision should be determined in light of its relationship to the entire Constitution and not as a single isolated provision." Johnson v. Piedmont Municipal Power Agency, 277 S.C. 345, 287 S.E.2d 476.

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To exclude from the exemption new manufacturing establishments or additions to existing establishments would have the effect of negating the effect of § 3(g) of the same Article.

This conclusion is fortified by the fact that the tax increment financing act is limited in its application to the expenditure of the tax revenue produced by the improvements. It does not exempt any property from taxation nor does it provide for the taxation of property at a greater rate than other property within the tax district. Such conforms to the equal and uniform tax requirements of Article X, §§ 1 and 6.

CONCLUSION:

A new manufacturing establishment or additions to existing manufacturing establishments are not deprived of the exemption provided by Article X, § 3(g) and § 12-37-220A(6) because the same are situate within a tax increment financing area.

JLAJr:wcg