

The State of South Carolina



Office of the Attorney General

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January 23, 1986

The Honorable T. Moffatt Burriss
Member, House of Representatives
Post Office Box 55
Columbia, South Carolina 29202

Dear Representative Burriss:

You recently requested that this Office address a situation in which taxpayers in a public service district must pay taxes toward retirement of bonds for sewer services even though the taxpayers do not have sewer services and indeed may not have such services for several more years. You had asked whether county government (collecting taxes for the district) can continue to tax for this service without furnishing the service within a reasonable period of time.

This Office recently addressed the identical situation occurring within a similar special purpose district located in another part of the state; copies of the opinion and its enclosures are enclosed herewith. The general law is that a tax may be assessed uniformly on all of the taxable property located within a specified taxing district, without regard to the benefits which a specific property owner may receive, unless a court should determine that the legislature or whichever body imposed the tax acted arbitrarily or flagrantly abused their power. From the large number of cases from both the state and United States Supreme Courts, it is apparent that this is a well-settled doctrine. Of course, this Office does not, from a public policy standpoint, necessarily share the views expressed in the various case authorities referenced in the enclosed opinions. Nevertheless, we must state to you the law as the courts have so defined it.

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As noted in the opinion dated January 22, 1986, taxpayers may possibly be entitled to relief. Cf., Asmer v. Livingston, 225 S.C. 341, 82 S.E.2d 465 (1954); Elmwood Cemetery Association v. South Carolina Tax Commission, 255 S.C. 457, 179 S.E.2d 609 (1971). The aggrieved taxpayers may wish to consult with their respective attorneys, since these would be private legal matters, to determine the necessary steps to take toward possible relief. This Office does not comment upon the fact situation in the letter enclosed with your request or upon the likelihood that relief from imposition of the tax would be granted.

We trust that the enclosed opinions and authority cited therein will provide your constituents with the law in this area. If you need clarification or additional assistance please advise us.

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

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