

1983 WL 182066 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 28, 1983

**\*1 SUBJECT: Taxation and Revenue—Uniform and Equal Taxation**

The tax of a fire or special purpose district must be equal and uniform to all persons and property within the district.

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QUESTION:

In Florence County a fire district was created, presumably under authority of [§ 4-9-30\(5\) of the 1976 Code](#). Debt has been incurred by the district and a five (5) mill levy is imposed for the debt service and possible operating revenue. By Act 149, Acts of 1983, the General Assembly created a fire district that is in part in Florence and Williamsburg Counties. The part that is in Florence County includes a portion of the district created by the County under [§ 4-9-30\(5\)](#). The district created by the legislative act is known as South Lynches Fire District and has a mill levy for 1983 of eighteen (18) mills. Are the five (5) mill levy and the eighteen (18) mills to be imposed on persons and property that are within both districts?

APPLICABLE LAW:

[Article X, § 6 of the South Carolina Constitution](#) and [§ 4-9-30](#) of the 1976 Code of Laws.

DISCUSSION:

Obviously, this is not a desired circumstance, nonetheless, [Article X, § 6](#) provides in part that: 'The General Assembly may vest the power of assessing and collecting taxes in all the political subdivisions of the State. Property tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes; provided that on properties located in an area receiving special benefits from taxes collected, special levies may be permitted by general law \* \* \*.'

Here, we have a special purpose district created by the General Assembly. The constitutionality of the Act created the district is presumed. (For cases so holding, see 6 S.C.D., [Constitutional Law](#), Key 48.)

Section 3(18) of the Act provides in part that the commission for the South Lynches Fire District:

'\* \* \* is vested with the power to raise funds for discharging the duties vested in it by levying a tax therefor. \* \* \*.'

The section further provides that the levy shall not exceed twenty (20) mills and further that the:

'\* \* \* tax shall be uniform throughout the district.'

By constitutional and statutory direction the tax must therefore be equal and uniform throughout the South Lynches Fire District. The eighteen (18) mill levy is districtwide.

The same is applicable to the district created by the County. In a somewhat related case, [Owen Industrial Products, Inc. v. Sharpe](#), 274 S.C. 193, 262 S.E.2d 33, the issue was whether a fire district tax was a county tax for purposes of an industrial exemption. The court held that the tax was not a county tax, giving recognition to the geographical area of the district as a tax district. In [Charleston County Aviation Authority v. Wasson](#), 277 S.C. 480, 289 S.E.2d 416, the court restated the settled rule. ‘\* \* \*. Uniformity of taxation must be coextensive with the territory to which the tax applies. [Smith v. Robertson](#), 210 S.C. 99, 119, 41 S.E.2d 631, 640.’

\*2 Under § 4-9-30(5) a special tax district was established. Under the above authority the levy must therefore be equal and uniform. The tax levy for this district is therefore five (5) mills and is districtwide.

CONCLUSION:

The tax of a fire or special purpose district must be equal and uniform to all persons and property within the district.

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