

1977 S.C. Op. Atty. Gen. 44 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-45, 1977 WL 24387

Office of the Attorney General

State of South Carolina

Opinion No. 77-44

February 2, 1977

*1 Hon. Ralph Ellis

Member

State Senate District No. 11, Office No. 1

State House

Columbia, South Carolina

Dear Senator Ellis:

You have requested an opinion from this Office as to whether or not a municipality is authorized by the provisions of Act No. 283 of 1975, the 'home rule' legislation, to impose a room tax upon motels, hotels and other public lodgings operating therein. In my opinion, it is not so authorized.

Section 47-32, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), provides in part that all municipalities of the State have the power to levy and collect taxes 'on real and personal property.' This language does not include within its purview a room tax. Moreover, the authorities state that [t]he power to tax, inherent only in sovereignty, and belonging exclusively to the legislative department of the government, is, to the extent that it is exercised by a municipal corporation, merely a delegated power, and is not possessed by a municipal corporation unless it has been plainly and unmistakably granted to it either in express terms or by necessary implication. 64 C.J.S. Municipal Corporations § 1978 at 644 (1950).

Since the power to impose a room tax has not been delegated to municipalities in South Carolina either expressly or by necessary implication, a municipality cannot impose such a tax.

With kind regards,

Karen LeCraft Henderson

Assistant Attorney General

1977 S.C. Op. Atty. Gen. 44 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-45, 1977 WL 24387

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.