

1977 S.C. Op. Atty. Gen. 273 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-343, 1977 WL 24682

Office of the Attorney General

State of South Carolina

Opinion No. 77-343

November 1, 1977

*1 Classifications may be created for county license tax purposes provided the same are reasonable, however, it is doubtful that a tax on one class to the exclusion of all other persons or businesses would be reasonable.

TO: William H. Seals, Esq.

Marion County Attorney

QUESTION

May a county impose a license tax on one business (or a select group of businesses) and exclude therefrom all other businesses within the county?

APPLICABLE LAWS

Section 4-9-30(12) of the 1976 Code of Laws and Article I, Section 3 of the Constitution and similar provisions of the Federal Constitution.

DISCUSSION

Section 4-9-30(12) provides in part that:

'* * * county government within the authority granted by the Constitution and subject to the general law of this State shall have * * * (power)

(12) to levy uniform license taxes upon persons and businesses * * *.'

The statute requires the tax to be uniform to those persons and businesses subject thereto. Such does not however preclude the classification of the persons or businesses upon some reasonable basis.

'Under a widely accepted rule, a constitutional provision calling for equality and uniformity of taxation has no application to an occupation or license tax, but is limited to a direct property tax that is assessed and collected in the usual way. Accordingly, where this rule is followed and there are no other restrictions on the legislature, it may, pursuant to a reasonable classification, impose license charges on some classes of businesses and occupations while exempting other classes. The equal protection clause does not impose any iron rule of equality. If the classification made by licensing legislation is truly reasonable, it will, in general, withstand attacks based on claims of violation of the due process or equal protection provisions of the Fourteenth Amendment. * * *.' 51 Am. Jur. 2d, Licenses and Permits, Section 27, page 34. See also [Holzwasser v. Brady](#), 262 S. C. 481, 205 S. E. 2d 701 and [Newberry Mills, Inc. v. Dawkins](#), 259 S. C. 7, 190 S. E. 2d 503.

The test is whether the classification is reasonable and it is doubtful that a tax as described above would be reasonable.

CONCLUSION

Persons and property may be classified for license tax purposes provided the same is reasonable. It is doubtful that a tax upon one class or a small select group of classes to the exclusion of all other persons and businesses would be reasonable. Such would however be dependent upon the facts and circumstances and while we do not conceive of a reasonable basis for such classification, the same nonetheless may exist.

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