

1979 S.C. Op. Atty. Gen. 138 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-100, 1979 WL 29105

Office of the Attorney General

State of South Carolina

Opinion No. 79-100

August 7, 1979

**\*1 SUBJECT: Property Tax**

Lots leased by the State to individuals for private residential purposes are not exempt from tax.

TO: Honorable Robert C. Wasson, Chairman  
South Carolina Tax Commission

QUESTION:

Is a lot on Hunting Island that is leased by the State to an individual subject to South Carolina property taxes?

STATUTES:

[Article X, § 3, South Carolina Constitution](#); § 3284–5 of the 1942 Code of Laws: Act #621, 1978 Acts.

DISCUSSION:

The provisions of [Article X, § 3 of the South Carolina Constitution](#), and Act #621 of the 1978 Acts, exempt property of the State that is used exclusively for public purposes. The property in issue is leased for private residential purposes and, therefore, does not qualify for exemption.

When the lease was executed, the exemption provisions now in effect had not been passed. The lease executed under § 3284 of the 1942 Code, now [§ 51–7–70 of the 1976 Code](#), provided specifically that the improvements would be deemed personal property and taxable to the lessee, and further recognized that under the interpretation of the existing law upon execution that the lot was tax exempt. The exemption existed because of the law in effect then and not by any means granted by the lease.

We recognize here that the State may be bound with a lease that is unfavorable if the property is taxed, but such does not exclude the property from the reach of the subsequent taxing provisions. The rules governing impairment of contracts prohibit parties from being deprived the benefits of a contract (see 16 Am. Jur., [Constitutional Law](#), § 445), but the contract may be performed whether or not the property is taxable.

CONCLUSION:

Lots leased by the State to individuals for private residential purposes are not exempt from tax.

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