

1979 WL 43611 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 24, 1979

***1 SUBJECT: Property Tax—Necessity of Wholly Owned Subsidiary Corporation to Return Property.**

A wholly owned subsidiary corporation that owns and sells property to the parent is to return its inventory and other property for ad valorem taxation.

Mr. Guy A. Pitts, Jr.
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Property Tax Division
South Carolina Tax Commission

QUESTION:

Should South Carolina Fuel Company, Inc., a wholly owned subsidiary corporation of South Carolina Electric and Gas Company, separately return property for taxation or should the property be included in the return of South Carolina Electric and Gas Company?

APPLICABLE LAW:

[§ 12-37-970 of the 1976 South Carolina Code of Laws.](#)

DISCUSSION:

The subsidiary is to own nuclear fuel to be used in the operation of the parent's V. C. Summer Nuclear Station. The parent is to pay the subsidiary for the fuel used.

The relationship between the parent and the subsidiary has no effect upon the requirements of the subsidiary to return the property and pay the tax. Our court in the case of [Edisto Fleets, Inc. v. South Carolina Tax Commission, 256 S.C. 350, 182 S.E.2d 713](#), considered a similar relationship and the issue of whether the lease of tangible personal property between the two corporations was subject to the tax. The court held:

‘The plaintiff, however, further contends that the proceeds are not subject to taxation because it is the wholly owned subsidiary of Edisto Farms Dairy. The contention is based upon the fact that the plaintiff does not business except the rental or lease of the vehicles to the parent. Such contention is without merit and is no basis upon which this Court may conclude that the proceeds are not taxable. The weight of authority is that such a relationship does not preclude the imposition of a tax upon the wholly owned subsidiary. [64 A.L.R. 769.](#)’

The applicable rule referred to by the court and stated in [64 A.L.R.2d 769](#) provides:

‘Since a wholly owned subsidiary is generally incorporated or acquired by the parent corporation for the purpose of advantageously carrying on some phase of the parent corporation's activities or business, the courts have been reluctant to disregard the separate legal entities of the parties merely to grant relief from sales, or similar, taxes at the expense of the state or its subdivision. Thus, the contention that because the wholly owned subsidiary and the parent corporation

are so closely integrated, sales by one to the other do not constitute 'sales' within the meaning of a sales tax, or similar, statute has been rejected by a number of courts.'

[Section 12-37-970](#) requires that the property be returned and taxed.

CONCLUSION:

A wholly owned subsidiary corporation that owns and sells property to the parent is to return its inventory and other property for ad valorem taxation.

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