

1978 S.C. Op. Atty. Gen. 104 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-74, 1978 WL 22555

Office of the Attorney General

State of South Carolina

Opinion No. 78-74

April 24, 1978

***1 SUBJECT: Property Tax Exemptions**

Vacant and unused property situate in Beaufort County and owned by a corporation organized for religious, educational, social, fraternal, charitable or other eleemosynary purposes is not exempt from ad valorem taxation.

TO: Honorable Mary W. Gray
Beaufort County Auditor

QUESTION:

Under this Act, is the property of a corporation that is organized to provide facilities for the elderly on a nonprofit basis exempt from taxation when the property is vacant and unused?

STATUTE:

Act 860, Acts of 1964.

DISCUSSION:

The corporation was chartered under the provisions of Chapter 13 of Title 12, Section 12-751, et seq., of the 1962 Code of Laws. The fact that the corporation was chartered as a 'charitable, social, religious and other nonprofit corporation' under the above section in no way grants an exemption from taxation.

'This section contains nothing on the subject of the exemption of an eleemosynary corporation from the payment of taxes.' [Textile Hall Corp. v. Hill](#), 215 S. C. 262, 54 S. E. 2d 809.

If the property is exempt, it must therefore be by reason of the 1974 Act, the language of which exempts:

'All property owned by an eleemosynary, charitable or fraternal corporation or society located in Beaufort County, chartered by the State and devoted to religious or charitable purposes, no profit of which inures to the benefit of any private stockholder or individual, but this exemption shall apply only to county, municipal and school district taxes.'

This statute must be construed in conjunction with the provisions of Article 10, Section 1 that existed prior to amendment on November 30, 1977. The General Assembly was then limited in its authority to exempt property to the purposes there enumerated, 'municipal, educational, literary, scientific, religious or charitable purposes'. The exemption is not therefore governed upon ownership alone and includes use. The condition precedents provided in the statute for the exemption are: (1) ownership of the property by the corporation or society, (2) that the property be located in Beaufort County, (3) that the corporation or society be chartered by the State, (4) that the property be devoted to religious or charitable purposes and, (5) that no profit inure to the benefit of a stockholder or individual.

Here the property is vacant and unused and the general rule is that:

'When property is exempt from taxation only where used for designated purposes, the general rule is that mere prospective use of property for such purposes does not exempt it from taxation. * * *.' 71 Am. Jur. 2d, State and Local Taxation, Section 372, page 677.

'Vacant and unoccupied land belonging to an educational institution and not actually used for any purpose is taxable. This also is true with respect to fraternal organizations and religious institutions.' 71 Am. Jur. 2d, State and Local Taxation, Section 368, page 675. (See also 84 C.J.S., Taxation, Section 282.)

*2 The property falls within the above and is thus taxable.

CONCLUSION:

It is the opinion of this office that vacant and unused property owned by a charitable corporation is not exempt from taxation by reason of Act 860, Acts of 1964.

Joe L. Allen, Jr.
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