

1978 S.C. Op. Atty. Gen. 166 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-130, 1978 WL 22598

Office of the Attorney General

State of South Carolina

Opinion No. 78-130

July 5, 1978

**\*1 SUBJECT: Property Tax—Owner of Improvements Made By Lessee.**

In the absence of a contractual condition improvements made by a lessee become the property of the lessor and taxed as realty.

TO: Mr. Laurie A. McLeod  
Horry County Assessor

**QUESTION:**

Are improvements made by a lessee to a building taxable to the lessee or the lessor?

**APPLICABLE LAW:**

[§ 12-37-10 of the 1976 Code](#) of Laws.

**DISCUSSION:**

[Section 12-37-10 of the 1976 Code](#) of Laws defines both real and personal property for purposes of taxation as follows: '(1) 'Real property' shall mean not only land, city, town and village lots but also all structures and other things therein contained or annexed or attached thereto which pass to the vendee by the conveyance of the land or lot;

(2) 'Personal property' shall mean all things, other than real estate, which have any pecuniary value, \* \* \*.'

The question is whether the improvements are annexed to the building and would pass to the vendee should the lessor sell or convey the property. The general rule is that:

'Buildings and other improvements on land are commonly taxed with it as realty, and generally the word 'improvement' includes everything which enhances the value of the premises permanently for general uses.' 84 C.J.S., Taxation, Sec. 72.

The parties, the lessor and lessee, may however contract otherwise and the improvement could remain the property of the lessee. If such is the case, then the improvements, under [§ 12-37-10](#), are personalty and are to be so taxed.

**CONCLUSION:**

In the absence of a contractual condition improvements made by a lessee become the property of the lessor and taxed as realty.

Joe L. Allen, Jr.

Deputy Attorney General

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