

1978 S.C. Op. Atty. Gen. 198 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-171, 1978 WL 22639

Office of the Attorney General

State of South Carolina

Opinion No. 78-171

October 16, 1978

**\*1 SUBJECT: Property Tax—The Constitutionality of Subdividing Agricultural Land Into More Than One Class**

All agricultural lands must be taxed upon the same defined value, however, the General Assembly may prescribe different methods of determining that value, provided there is a reasonable basis for the different methods and the same do not result in a lack of uniformity and equality of values within the class.

TO: Mr. Guy A. Pitts, Jr.

Director

Property Tax Division

QUESTION:

Would it be constitutional to subdivide agricultural lands for use value purposes such as timberland, crop land, horticulture land, et cetera?

APPLICABLE LAW:

Article X, §§ 1 and 2.

DISCUSSION:

The pertinent language of the constitutional provision is that:

‘§ 1.

\* \* \*. The assessment of all property shall be equal and uniform in the following classifications:

(4) Agricultural real property which is actually used for such purposes shall be taxed on an assessment equal to:

(A) Four percent of its value for such purposes when owned or leased to individuals or partnerships and certain corporations \* \* \*.

(B) Six percent of its value for such purposes when owned or leased to corporation, except for certain corporations specified in (A) above. \* \* \*.' (Emphasis added)

‘§ 2.

(a) The General Assembly may define the classes of property and values for property tax purposes of the classes of property set forth in Section 1 of this article and establish administrative procedures for property owners to qualify for a particular classification.'

Agricultural land when used for such purposes constitutes a class and the General Assembly by Section 2 of the article may define the class and its value. Our court in the case of [Sanders v. Belue](#), 78 S. C. 171, 58 S. E. 762, 764, stated: 'The Century Dictionary gives the meaning of the word 'define' when used in connection with the duties of a public office: 'To fix, establish, or prescribe authoritatively.'

In defining the class and its value, the General Assembly must be governed, however, by Section 1 of the article that requires that the assessment be equal and uniform within the class.

"Generally, within constitutional limitations, the state has power to classify persons or property for purposes of taxation, and the exercise of such power is not forbidden by the constitutional requirement that taxation be uniform and equal, provided the tax is uniform on all members of the same class and provided the classification is reasonable and not arbitrary.' 84 C.J.S. Taxation § 36, p. 112.' [Newberry Mills, Inc. v. Dawkins](#), 259 S. C. 7, 190 S. E. 2d 503. (Emphasis added)

When defining the class or the value the General Assembly cannot prescribe different values for property within the same class. The General Assembly has in Section 12-43-220 defined the value of agricultural lands for purposes of taxation. A different value could not therefore be prescribed for any lands within the classification because of the constitutional limitations.

\*2 While the above responds to the question presented we also consider whether the General Assembly may prescribe different methods to determine the defined value of agricultural lands. The general rule is found in [84 C.J.S. Taxation](#), § 30, pp. 98 and 99, and for purposes of completeness is quoted in detail:

'The constitutional provision for equality and uniformity of taxation does not require that assessments always be made by the same officer or class of officers or that the same methods of ascertaining values be followed for all classes of property. As long as no discrimination results, it has been held that there is no constitutional objection to statutes providing for the valuation of different kinds of property by different boards or officers, or at different times, or according to a different mode of procedure. So the legislature may direct the method of assessment of all classes of property and apply different methods to different types of property although included in the same constitutional classification. Also, a difference in methods, yardsticks, or formulas used by a tax assessor in determining the values of different parcels of realty does not prove a lack of uniformity in assessment thereof, if there is a reasonable, practical, and just basis for application of the different methods or formulas. There is no constitutional bar to the legislature providing a mode of assessment or property in one locality different from that prevailing elsewhere. \* \* \*'

### CONCLUSION

All agricultural lands must be taxed upon the same defined value, however, the General Assembly may prescribe different methods of determining that value, provided there is a reasonable basis for the different methods and the same do not result in a lack of uniformity and equality of values within the class.

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