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Office of the Attorney General

State of South Carolina

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*1 The South Carolina income tax may be reduced by the fair market value of land donated to the State under Section 70-45.8 in the manner therein prescribed.

Mr. C. H. Brooks
Director
Income Tax Division
South Carolina Tax Commission

QUESTION

For South Carolina Income Tax purposes, does the subject legislation (70-45.5) provide for an allowable deduction of a contribution under Section 65-259(14) or, does it provide for a tax credit to offset any tax liability for the year in which property is donated?

STATUTES INVOLVED

Sections 70-45.5 and 70-45.6.

DISCUSSION

Section 70-45.5 authorizes the donation to the State of certain property or easements thereto and Section 70-45.6 provides in part as follows:

‘* * *. For compensation of perpetual easements given to the State, the owners of the title to such land shall be exempt from all property taxes which are presently or would be in the futures assessed on the land subject to the perpetual easement. All donators of lands in fee simple pursuant to this chapter may deduct from State income tax the value of the property donated, electing to take either (1) the total deduction in the year of the donation, or (2) three equal deductions of one third of the value for three years beginning with the year of the donation. The value of the land donated shall be the fair market value assessed at the time of the donation. The State Budget and Control Board shall annually submit a report of the property included in the scenic river system to the South Carolina Tax Commission and to the auditor of each county in which the property is situated.’ (Emphasis ours)

The language of the statute is clear that the South Carolina income tax may be reduced by an amount not exceeding the fair market value of the property when the fee is donated. The income tax may be reduced in one of two ways:

(1) A total reduction equal to the property's fair market value in the year of donation, or (2) a reduction of one third of the property's fair market value for three years beginning with the year of donation.

CONCLUSION

The South Carolina income tax may be reduced by the fair market value of land donated to the State under Section 70-45.6 in the manner therein prescribed.

Joe L. Allen, Jr.
Deputy Attorney General

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