

1975 WL 29206 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 25, 1975

\*1 The tax imposed by Section 65-403 upon banks is in lieu of a tax on the bank's personal property.

TO: Honorable James M. Morrie  
Clarendon County Attorney

### QUESTION

Is the personal property of banks subject to ad valorem taxation?

### STATUTE INVOLVED

Section 65-403.

### DISCUSSION

The General Assembly in 1937, Act 349, imposed a tax upon banks and in Section 3 of the Act provided: 'The income taxes herein provided shall be in lieu of all other taxes, except taxes on real property. The real property of any such bank, or banking association, shall be taxed in the place where the same may be located, the same as the real property of individuals.'

In 1938 the General Assembly provided for the distribution of the tax, Act 862, and further in 1974 amended the 'in lieu' of provision so as to subject the banks to the use tax and the documentary stamp taxes, Act 932. Section 65-1722 was repealed by Section 4 of Act 476, Acts of 1967, and there is no statutory authority that now subjects the personal property of banks to an ad valorem tax as the term 'in lieu of' precludes the same.

'A bank charter providing that the bank should pay to the state an annual tax of a certain amount on its capital stock, which should be 'in lieu of all other taxes,' means that none other than the tax specified, however described, can be demanded. It limits the bank's liability to the specific tax. The term has the effect of exempting from taxation the property of the bank, as well as the individual property of the shareholders in the corporate stock and its shares. [State of Tennessee v. Bank of Commerce, 53 F. 735, 736.](#)'

### CONCLUSION

It is therefore the opinion of this office that the personal property of a bank is not subject to an ad valorem property tax.

Joe L. Allen, Jr.  
Deputy Attorney General

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