

1974 WL 27987 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 15, 1974

**\*1 Re: Ad Valorem Property Taxes for Santee Delta Refuge, The Nature Conservancy**

The property of the Nature Conservancy obtained by deed from the Santee Gun Club on July 23, 1974, is exempt from property taxation.

Mr. Bill Cotty  
Legislative Affairs  
South Carolina Wildlife & Marine Resources Department  
Post Office Box 167  
Columbia, South Carolina 29202

Dear Mr. Cotty:

Mr. Latimer has asked that I respond to your request for the opinion of this office of the exempt status of the property of The Nature Conservancy from property taxation for the 1974 tax year.

Section 65-1522 was amended by Act 1221, Acts of 1974, to provide in part as follows:

'The following property shall be exempt from taxation:

( ) All real property owned by The Nature Conservancy. \* \* \*.'

The Act was effective on July 18, 1974 and clearly exempts the property owned by the Conservancy from taxation for years subsequent to 1974. The property that is the subject of your request. The Santee Delta Refuge, was owned by The Santee Gun Club until July 23, 1974, at which time title thereto was transferred to the Conservancy. The question is whether the Act exempts the property for the 1974 tax year.

The Santee Gun Club was required by law to return this property for taxation (Section 65-1644) and was liable for the taxes due thereon (Section 65-1611), however, the above Act would exempt the property from taxation if the taxes were not a fixed charge on July 23, 1974.

'Whether or not property is exempt from taxes for the year is to be determined as of its taxable status date, which ordinarily is when the assessment is levied and the tax is due or becomes a lien on the property.' 84 C. J. S., Taxation, Section 237, p. 455.

'Since the word 'taxation' ordinarily includes a determination of the rate of levy and the imposition of the levy, as an essential part of the sovereign power and process \* \* \* it follows that property will not ordinarily be deemed as taxed until the tax has been levied. \* \* \*.' [Rayle Electric Membership Corporation v. Cook](#), 195 Ga. 734, 25 S. E. 2d 574.

Such is also the accepted law in this State. Our Court in the case of [Town of Myrtle Beach v. Holliday](#), 203 S. C. 25, 26 S. E. 2d 12, quotes from 61 C. J. 406 as follows:

'For the purpose of determining whether or not property is exempt from taxation for any year, its status in jurisdiction where all taxable property is required to be assessed at a particular date is to be taken as of that date, so that when

a constitutional or statutory provision exempting property from taxation goes into operation on a certain day in the year before the taxes for that year have been assessed, or before the day when by law they become a fixed charge on the property, the exempted property is free from taxes for the current year \* \* \*.'

You advise that the taxes were not a fixed charge on that date, therefore, it is the opinion of this office that the property is exempt from taxation for the 1974 tax year.

\*2 This opinion is fortified by the command to the Wildlife and Marine Resources Commission to recommend to the 1975 General Assembly alternative methods to fund the tax revenue lost to the respective counties by reason of the exemption.

Yours very truly,

Joe L. Allen, Jr.  
Assistant Attorney General

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