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State of South Carolina  
**Department of Revenue**  
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

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SC REVENUE RULING # 98-2

**SUBJECT:** Banks - Real Versus Personal Property  
(Property)

**EFFECTIVE DATE:** Applies to all periods open under the statute.

**SUPERSEDES:** All previous documents and any oral directives in conflict herewith.

**REFERENCES:** S. C. Code Ann. Section 12-11-30 (1976)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 1997)  
SC Revenue Procedure #97-8

**SCOPE:** A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Questions:

For property tax purposes, how are banks to classify the following items? More specifically, should they be classified as real property or personal property?

1. Drive-up windows. This is the vision window and the assembly that includes the teller counter with the sliding tray.
2. Night depositories. This includes the wall head which includes the drawer and the safe that collects and holds the deposits.
3. Pneumatic drive-up systems. This includes the curbside boxes or stands, the transfer tubes and the compressor equipment.
4. Security equipment. This includes the cameras, monitoring equipment, entry detection devices, signaling equipment and wiring.

Conclusion:

For purposes of the property tax, all of the above items are deemed to be real property. However, if it can be demonstrated that it would not be costly, time consuming and destructive to a particular building to remove the items, then the items may be classified as personal property.

Discussion:

Code Section 12-11-30 reads:

The income tax provided in this chapter shall be in lieu of all other taxes on banks, except the use tax, the documentary stamp tax and taxes on real property. The real property of any such bank shall be taxed in the place where it may be located, the same as the real property of individuals.

In summary, banks do not pay property taxes on personal property. However, they do pay property taxes on real property. Therefore, it must be decided if the items in question are real or personal property.

Attorney General's Opinion No. 2238 (March 8, 1967) addresses the issue at hand. To quote from that opinion:

In your memorandum of February 28, 1967, you request the opinion of this office of whether a vault door, night depository, and a heating and air conditioning system within a building occupied by a bank is to be considered as realty or personalty for ad valorem tax purposes.

You refer to two different situations, the first being where the bank is the owner of the land and building; and the other, where the bank occupies the land and building by lease.

The General Assembly has provided, by statute, definitions for real or personal property.

'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.'

'Personal property shall mean all things, other than real estate, which have any pecuniary [money] value...' [Sections 12-37-10(1) and (2)]

Our Supreme Court, in the case of *Paris Mountain Water Company v. Woodside*, 133 S.C. 383, 131 S.E. 37, was concerned with whether water pipes placed in lands belonging to others were to be taxed as realty or personalty and the Court, in holding that the pipe was to be taxed as realty, stated:

'In the requirement of an intention to make the article annexed a permanent accession to the land, the expression of permanent does not, it seems, imply that the annexation must be intended to be perpetual, but rather that the article shall appear to be intended to remain where fastened until worn out, until the purpose to which the realty is devoted has been accomplished, or until the article is superseded by another article more suitable for the purpose.'

It appears, therefore, that the items involved herein would be annexed to the real property and become a part of the same. The agreement between the parties that items remain personalty while binding upon the parties is not determinable of the character of the property for tax purposes.

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A bank vault door was held by the California Supreme Court to be realty and taxed as such in the cases of *San Diego Trust and Savings Bank v. San Diego County*, 105 P.2d 194, 16 Calif. 2d 142, 133 A.L.R. 16; *Trabue Pittman Corporation v. Los Angeles County*, 175 P.2d 512, 29 Calif.2d 385.

It is, therefore, the opinion of this office that the vault door, night depository, and the heating and air conditioning systems contained in a bank building and affixed thereto in such a manner that the removal of the same would be costly, time consuming and destructive to the building, constitutes a part of the building and subject to the ad valorem tax as real property. Such items would be taxed as realty whether the land and building were the property of the bank or whether the bank occupied such property under the terms of the lease.

Based on the above-quoted opinion, it is concluded that the items in question are to be classified as real property. However, the items may be classified as personal property, if it can be shown that it would not be costly, time consuming and destructive to a particular building to have them removed from the building.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III  
Burnet R. Maybank III, Director

January 11, 1998  
Columbia, South Carolina