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SC TECHNICAL ADVICE MEMORANDUM #90-3

TO: Mr. James L. Brodie, Director
Property Division

FROM: John P. McCormack, Manager
tax Policy and Procedures Department

DATE: February 27, 1990

SUBJECT: Exemption of Rural Telephone Property
(Property Tax)

REFERENCE: S.C. Code Section 12-37-220(B)(10) (Supp. 1988)
S.C. Code Section 12-37-220(40) (1976)
S.C. Code Section 12-37-220(41) (1976)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
SC Revenue Procedure #87-3

SCOPE: A Technical Advice Memorandum is a temporary document issued to an individual within the commission, upon request, and it applies only to the specific facts or circumstances related in the request. Technical Advice Memoranda have no precedential value and are not intended for general distribution.

Questions:

1. Is property of rural telephone cooperatives and rural telephone party lines and instruments exempt from property taxation, pursuant to Code Section 12-37-220(B)(10)?
2. Are motor vehicles of rural telephone cooperatives exempt from property taxation, pursuant to Code Section 12-37-220(B)(10)?

Facts:

Section 12-37-220(B)(10) provides an exemption from property taxes for certain property of telephone companies and rural telephone cooperatives providing rural telephone service.

It has come to the Commission's attention that some counties are imposing county and school property taxes on property of telephone cooperatives when the property is located in a city or town, and some counties are not.

Additionally, questions have been raised as to whether vehicles should be exempted under this section.

Discussion:

Code Section 12-37-220(B)(10) reads:

(10) Notwithstanding any other provisions of law, the property of telephone companies and rural telephone cooperatives operating in this State used in providing rural telephone service, which was exempt from property taxation as of December 31, 1973, shall be exempt from such property taxation; provided, however, that the amount of property subject to ad valorem taxation of any such company or cooperative in any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973. Any property in any tax district added after December 31, 1973, shall likewise be exempt from property taxation in the proportion that the exempt property of such company or cooperative as of December 31, 1973, in that tax district was to the total property of such company or cooperative as of December 31, 1973, in that tax district.

In summary, the statute provides an exemption for certain property of telephone companies and rural telephone cooperatives, when used in providing rural telephone service, if such property was exempt as of December 31, 1973. In addition, property of such taxpayers added after December 31, 1973 is exempt based on a specific ratio.

In order to further understand this exemption, with respect to property added after December 1973, we must review the exemption as of December 31, 1973.

The prior exemptions for the taxpayers were found in Code Section 12-37-220(40) and (41). Those sections provided the exemptions, as of December 31, 1973, for:

(40) Property of rural telephone cooperatives - All property of every kind owned by rural telephone cooperatives organized under the provisions of Chapter 45 of Title 33, but if any such telephone service is rendered to residents within the corporate limits of any city or town they shall be subject to taxation by such city or town; and

(41) Certain rural party telephone lines and instruments - all rural party telephone lines and instruments constructed since March 29, 1945, serving party-line customers and used in the transmission of messages, conversation or other means of communication by means of electricity over rural lines, but this exemption shall extend only to county and school taxes.

In summary, the prior exemption, which is the basis for the current exemption, provided an exemption for all property of rural telephone cooperatives, and, rural party lines and instruments of telephone companies.

Conclusion:

Rural Telephone Cooperatives:

All property (including motor vehicles) of rural telephone cooperatives, exempt from property taxation as of December 31, 1973, is exempt from property taxation, except city and town taxes. However, pursuant to Code Section 12-37-220(B)(10), "the amount of property subject to ad valorem taxation...on any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973".

All property (including motor vehicles) of rural telephone cooperatives, added after December 31, 1973 and used in providing rural telephone service, is exempt from property taxation, except city and town taxes.

Telephone Companies:

Rural telephone lines and instruments of telephone companies, exempt from property taxation as of December 31, 1973, are exempt from property taxation, except city and town taxes. However, pursuant to Code Section 12-37-220(B)(10), "the amount of property subject to ad valorem taxation...on any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973".

Property (including motor vehicles) of telephone companies added after December 31, 1973 and used in providing rural telephone service, is exempt from property taxation for each taxing district, except city and town taxes, in the following proportion:

Exempt rural telephone lines and instruments in the district as of 12-31-73

Total property in the district as of 12-31-73