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THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO.

January 22, 1985

SUBJECT: Taxation And Revenue-Residential
Classification Of Partnership Property.

SYLLABUS: A residence owned by a partnership and
occupied by a partner would not qualify for
the residential classification as provided by
§ 12-43-220(c).

TO: Honorable J. Leroy Marlow
Spartanburg County Assessor

FROM: Joe L. Allen, Jr.
Chief Deputy Attorney General

QUESTION: Can real property owned by a partnership be
classified as residential when occupied by a partner?

APPLICABLE LAW: §§ 12-37-610, 12-43-220(c) and 33-41-10,
et seq., Code of Laws of South Carolina, 1976.

DISCUSSION:

The property here considered was conveyed to Fowler Invest-
ment Services, a partnership. Presumably, it is occupied by
a partner and this is the basis for the claim for residen-
tial classification. The conditions for the classification
are that the residence be owned totally or in part in fee or
for life and that it be occupied by the owner as his legal
residence.

Here, title to the property is held by the partnership.
Section 33-41-720 provides that a partner is the co-owner
with his partners of specific partnership property, holding
as tenants in partnership. Each partner has an equal right
to possess specific partnership property with other partners
limited, however, to partnership purposes.

"As a practical matter, now the partner-
ship, rather than the partners, owns the
firm property. There is really no
conflict with prior law in this in-
stance, since it has long been settled
that the joint effects of a partnership
belong to the firm, and not to the
partners, and that a partner has no

Honorable J. Leroy Marlow
Page Two

January 22, 1985

individual property in any specific
assets of the firm." 60 Am.Jur.2d,
Partnership, § 101.

The partnership is thus the owner of the property and the
entity liable for the tax. Section 12-37-610.

The individual partner could not possess the property except
for partnership purposes and the property could not thus
qualify for the residential classification.

CONCLUSION:

A residence owned by a partnership and occupied by a partner
would not qualify for the residential classification as
provided by § 12-43-220(c).

JLAJr:wcg