

1979 S.C. Op. Atty. Gen. 55 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-39, 1979 WL 29045

Office of the Attorney General

State of South Carolina

Opinion No. 79-39

March 2, 1979

***1 SUBJECT: Disabled Veterans' Exemption—Surviving Spouse**

Section 12–37–220B(1) of the Code does not exempt a house of a widow whose disabled veteran husband died in 1975.

TO: Honorable Emily Jackson
Sumter County Auditor

QUESTION:

Does the exemption in § 12–37–220B(1) of the 1976 Code of Laws as amended apply to a house in which the widow of a disabled veteran who died in 1975 lives?

STATUTE:

Section 12–37–220B(1), 1976 Code of Laws, as amended by Act No 621 of the 1978 General Assembly.

DISCUSSION:

The provision in issue, § 12–37–220B(1), was enacted in 1978 and became effective on March 1, 1978. It thus affects tax years beginning with the year 1979. It has been said with respect to the homestead exemption, which is similar as it provides for a tax exemption, that the statute exempts a class of persons. OAG, May 4, 1978. Section 12–37–220B(1) exempts the dwelling house of a disabled veteran while he resides in the house and after his death as long as his widow remains unmarried and resides in the house.

The language of the last sentence provides that the exemption applies for the house as long as the widow ‘resides in the exempt house’. This language evidences an intent that the house must be exempt to the disabled veteran as a condition for the widow's exemption.

As under the facts given the house never qualified for exemption to the veteran, he having died before the law was passed, it would not be exempt to the widow.

The rule of law is that legislation creating tax exemptions must be strictly construed and must be applied prospectively unless clear language provides for a retroactive application. [Independence Ins. Co. v. Independent Life & Acc. Ins. Co.](#), 218 S. C. 22, 61 S. E. 2d 399; [Jefferson Standard Life Ins. Co. v. King](#), 165 S. C. 219, 163 S. E. 653 and [Pulliam v. Doe](#), 246 S. C. 106, 142 S. E. 2d 861. These two principles negate the exemption.

CONCLUSION:

Section 12–37–220B(1) of the Code does not exempt a house of a widow whose disabled veteran husband died in 1975.

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