

1977 S.C. Op. Atty. Gen. 287 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-359, 1977 WL 24697

Office of the Attorney General

State of South Carolina

Opinion No. 77-359

November 10, 1977

*1 A surviving spouse that is 57 years or older is entitled to the homestead exemption when it is shown that the deceased spouse was entitled to the exemption and such may be allowed although the deceased spouse had not applied for the exemption.

TO: Aiken County Auditor

QUESTION

Your have required;

Is a surviving spouse entitled to the homestead exemption under the following: The husband was disabled in 1970 at the age of 55. He died in 1975 at the age of 60. At the time of his death the spouse was 61 and she is now 64.

STATUTE

Section 12-37-250, as amended by Act No. 37, Acts of 1977.

DISCUSSION

In 1977 the General Assembly enacted an amendment to the home stead exemption so as to extend it to a surviving spouse who is 57 years old.

‘When any person who was entitled to a homestead tax exemption under this section dies and the surviving spouse is at least fifty-seven years of age and acquires complete fee simple title or a life estate to the dwelling place such dwelling place shall be exempt from real property taxes to the same extent and obtained in accordance with the same procedures as is provided for in this section for an exemption from real property taxes so long as the spouse remains unmarried.’

The exemption is extended to a surviving spouse provided that such spouse shows that the deceased spouse was ‘entitled’ to the exemption.

The word ‘entitle’ is defined in Webster's New Collegiate Dictionary ‘To give a right, legal title or claim to; to qualify (one) for.’ This is supported in Commonwealth v. Moorhead, 7 Pa. Co.Ct.R. 513; Thompson v. Thompson, 18 So.247, 197 Ala. 163; In re Graves, 30 S.W.2d 149, 325 Mo. 888. Therefore, it is our opinion that a surviving spouse is granted the exemption although the deceased spouse had not applied for the exemption.

CONCLUSION

A surviving spouse that is 57 years or older is entitled to the homestead exemption when it is shown that the deceased spouse was entitled to the exemption and such may be allowed although the deceased spouse had not applied for the exemption.

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