

1982 S.C. Op. Atty. Gen. 54 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-49, 1982 WL 155018

Office of the Attorney General

State of South Carolina

Opinion No. 82-49

July 9, 1982

**\*1 SUBJECT: Taxation—Homestead Exemption**

A will that devises property in life to joint tenants with the right of survivorship satisfies the ownership requirements in the survivor for homestead tax exemption purposes.

TO: Honorable Earle E. Morris, Jr.  
Comptroller General

**QUESTION:**

A residence is devised in life to joint tenants who are husband and wife. The will further expresses the testator's intention that upon the death of either the survivor is to possess the life estate. The husband was disabled and received the homestead exemption for several years. The husband is now deceased and the question is whether the surviving widow can receive the benefits of the exemption as the surviving spouse.

**APPLICABLE LAW:**

[§ 12-37-250, 1976 Code](#) of Laws

**DISCUSSION:**

[Section 12-37-250](#) provides in part that:

‘When any person who was entitled to a homestead tax exemption under this section dies and the surviving spouse is at least fifty years of age and acquires complete fee simple title or a life estate to the dwelling place within nine months after the death of the spouse 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 and such dwelling place is utilized as the permanent home and legal residence of such spouse.’

The terms of the will that devised the joint life tenancy reflect the testator's intent that the survivor of the two acquire the complete life estate. The estate is devised by the following language:

‘\* \* \* to live in this house as long as they live. Upon their departure or death this house is to go \* \* \*.’

This language reflects that the survivor of the joint life tenants, the widow, acquires a life estate in the property unless earlier terminated by departure.

**CONCLUSION:**

It is the opinion of this office that a will that devises property in life to joint tenants with the right of survivorship satisfies the ownership requirements in the survivor for homestead tax exemption purposes.

Joe L. Allen, Jr.  
Deputy Attorney General

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