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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

September 23, 2003

The Honorable Chip Huggins
Member, House of Representatives
308 Wayworth Court
Columbia, South Carolina 29212

Dear Representative Huggins:

In a letter to this office you questioned whether for purposes of S.C. Code Ann. Section 12-43-220(c) (Supp. 2002), can real property owned by a corporation or LLC be classified as residential when occupied as the primary residence by the sole proprietor. Section 12-43-220 states in part

The legal residence...when owned totally or in part in fee or by life estate and occupied by the owner of the interest...are taxed on an assessment equal to four percent of the fair market value....

A prior opinion of this office dated October 25, 1982, a copy of which is enclosed, determined that a residence owned by a corporation and occupied by a shareholder cannot be classified for purposes of Section 12-43-220 as residential property. Another opinion of this office dated January 22, 1985, also enclosed, indicated that a residence owned by a partnership and occupied by a partner would not qualify for the residential classification provided by Section 12-43-220(c). A similar conclusion would be had for an LLC. See: S.C. Code Ann. Section 33-44-501 (Supp. 2002) ("A member...(of a limited liability company)...is not a co-owner of, and has no transferable interest in, property of a limited liability company.).

If there are any questions, please advise.

Sincerely,

A handwritten signature in cursive script, reading "Charles H. Richardson".

Charles H. Richardson
Senior Assistant Attorney General

Enclosures