

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

December 10, 1990

SUBJECT: Taxation and Revenue - Homestead Exemption -
Nonqualifying Life Estate

SYLLABUS: A life estate created by deed in 1980 does
not satisfy the requirements of S. C. Code
Ann. Section 12-37-250 for the homestead
exemption.

TO: Honorable Harry A. Huntley
Richland County Auditor

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

QUESTION: A person holds a fee simple title to his
homestead and in 1980 conveys a life estate to his wife.
Does the life estate that is so conveyed qualify for the
homestead exemption provided by Section 12-37-250?

APPLICABLE LAW: S.C. Code Ann. Section 12-37-250.

DISCUSSION:

The statute provides an exemption from ad valorem taxation of the first \$20,000 of fair market value of the homestead of persons who are sixty-five years of age or more, who are classified as permanently and totally disabled or who are legally blind. The homestead must be owned in fee or for life. When jointly owned by a husband and wife and either meets the other conditions, the ownership requirements are satisfied. For life estate ownership, however, there is an additional requirement. In cases where the life estate is created by deed, the estate must have been granted prior to December 31, 1979. The specific language of Section 12-37-250 that is here applicable states:

The provisions of this section shall apply to life estates created by will and also to life estates otherwise created which were in effect on or before December 31, 1979.

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In the instant case, the life estate was created by deed executed in 1980. The estate therefore fails to satisfy the conditions for the exemption and cannot be granted. This is also in accord with settled rules of statutory construction.

Constitutional and statutory language creating exemptions from taxation will not be strained or liberally construed in favor of taxpayer claiming exemption, but he must clearly bring himself within constitutional or statutory language upon which he relies.

York County Fair Ass'n. v. South Carolina Tax Commission,
249 S.C. 337, 154 S.E.2d 361 (1967). For other cases see
17A S.C.D., Taxation, Key 204.

CONCLUSION:

A life estate created by deed in 1980 does not satisfy the requirements of Section 12-37-250 for the homestead exemption.

JLAJr:wcg