

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

October 27, 1989

SUBJECT: Taxation and Revenue - Homestead Exemption.
Substitution of a Mobile Home.

SYLLABUS: A new application for the homestead exemption is not required to continue the exemption when the mobile home of a person qualified and receiving the exemption is replaced by another mobile home.

TO: Honorable Irene Rudnick
Member, House of Representatives
District No. 81

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

QUESTION: A person is qualified and receiving the homestead exemption for his "dwelling place" that consist of land and a mobile home, which was moved from the land in 1988. A new or different mobile home was immediately put in place of the one removed. The question is whether a new application for the homestead exemption is required.

APPLICABLE LAW: Sections 12-37-250 and 12-37-255, Code of Laws of South Carolina, 1976.

DISCUSSION:

Section 12-37-250 grants an exemption for property taxation of up to \$20,000 of a person's dwelling place when such person is sixty-five years of age, blind or totally and permanently disabled. Other conditions for the exemption must be met. The language requiring an application provides that:

" . . . The exemption may not be granted unless such persons or their agents make written application therefor on or before July fifteenth of the tax year in which the exemption is claimed . . ."

October 27, 1989

Section 12-37-255 provides in part that:

"When the homestead exemption is initially granted pursuant to Section 12-37-250 of the 1976 Code it shall continue to be effective for successive years in which the ownership of the homestead or the other qualifications for the exemption remain unchanged . . ."

The issue is thus whether the ownership of the "homestead" or the persons's permanent home and legal residence has changed. If there has been a change, the exemption granted for 1988 and prior years would not continue. If, however, there has been no change by the substitution or replacement of the mobile home, then the exemption would continue.

Section 12-37-250 grants the exemption to a dwelling place which is defined as the:

". . . permanent home and legal residence of the owner . . ."

Section 12-37-255 refers to the same as the person's "homestead." That term, however, must relate to and be harmonized with the definition of "dwelling place." (For cases see 17 S.C.D., Statutes, Key 207-conflicting provisions.)

Under the facts as stated, there has been a change in the ownership of the mobile home. Title to the first was transferred to another and title to the other was transferred from another to the person here considered. There, however, has not been in our view a change in the ownership of the person's "permanent home and legal residence." That remains in the structure located on the land for which the exemption was initially granted.

A change in ownership as contemplated by Section 12-37-255 is in our view one that would preclude the grant of the exemption.¹

¹To conclude otherwise would require a new application in cases where the permanent home is destroyed and rebuilt or replaced. We would not conclude this to have been the legislative intent of Section 12-37-255.

Honorable Irene Rudnick
Page Three

October 27, 1989

CONCLUSION:

A new application for the homestead exemption is not required to continue the exemption when the mobile home of a person qualified and receiving the exemption is replaced by another mobile home.

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