

1984 S.C. Op. Atty. Gen. 71 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-30, 1984 WL 159837

Office of the Attorney General

State of South Carolina

Opinion No. 84-30

March 22, 1984

***1 SUBJECT: Taxation and Revenue—Income Tax—Special Needs Exemption Of \$2,000 For An Adopted Child.**

(1) Act 271 of the Acts and Joint Resolutions of 1984 grants a \$2,000 exemption as opposed to an exclusion to individuals adopting a special needs child.

(2) Although not entirely free from doubt, the General Assembly intended, and Act 271 grants, a \$2,000 exemption which is in lieu of rather than in addition to the \$800 exemption of § 12-7-310(3).

To: Mr. William R. Geddings, Jr.

Director

Income and Estate Division

QUESTIONS:

(1) Does Act 271 of the Acts and Joint Resolutions of 1984 grant a \$2,000 exclusion from income or rather does it grant a \$2,000 exemption?

(2) Is the \$2,000 amount in Act 271 in addition to or in lieu of the \$800 exemption for dependents under § 12-7-310(3)?

APPLICABLE LAW:

[§ 12-7-310, South Carolina Code](#) of Laws, 1976, as amended, and Act 271 of the Acts and Joints Resolutions of 1984.

DISCUSSION ON QUESTION 1:

It is an established rule of construction that the language of a tax statute must be given its plain ordinary meaning in the absence of an ambiguity. [Beach v. Livingston](#), 248 S. C. 135, 149 S. E. 2d 328, 330 (1966). As our Supreme Court stated long ago: 'The legislature must have intended to mean what it has plainly expressed, and consequently there is no room for construction. * * *. Where the words of a statute are plainly expressive of an intent, not rendered dubious by the context, the interpretation must conform to and carry out that intent. It matters not, in such a case, what the consequences may be.' [Beaty v. Richardson](#), 56 S. C. 173, 34 S. E. 73, 76 (1899).

Act 271 expressly states 'an exemption of \$2,000' is granted to an individual in the case of an adoption of a special needs child. Had the General Assembly intended to grant a \$2,000 exclusion, it could have so stated, but rather chose to grant an exemption.

CONCLUSION:

Act 271 of the Acts and Joint Resolutions of 1984 grants a \$2,000 exemption as opposed to an exclusion to individuals adopting a special needs child.

DISCUSSION ON QUESTION 2:

In determining the meaning of a statute, it is relevant to look to all the parts of the statute together and their relation to the end in view. [DeLoach v. Scheper](#), 188 S. C. 21, 198 S. E. 409 (1938). Here the scheme of § 12-7-310, which is amended by Act 271, is to grant exemptions under specified circumstances. When the General Assembly intended to grant exemptions in circumstances that could qualify for more than one exemption classification, it so designated by stating ‘in addition to the exemption provided by * * *’. For example, a single individual who is entitled to an exemption under § 12-7-310(1) may also be entitled to an exemption for blindness under subdivision (7). To express the view that both exemptions are allowed, the General Assembly used the language ‘* * * in addition to the exemption provided by subdivision (1)’. Likewise, a married couple with one or both spouses being blind may claim the exemptions of subdivision (2) and (7) since the General Assembly allowed language to grant the blind spouse the additional exemption by stating ‘* * * in addition to the exemption provided by subdivision (2)’. To the same effect, see subdivision (8) dealing with attaining the age of sixty-five (65).

*2 Act 271 grants an exemption for a special needs child who is ‘dependent upon and receiving his chief support from another individual’. This is the identical language used in § 12-7-310(3). Thus, the \$2,000 exemption in Act 271 sets forth a circumstance that will qualify for more than one exemption classification, i. e., § 12-7-310(3) and Act 271. The General Assembly has demonstrated within § 12-7-310 that when such occurs, the language ‘in addition to the exemption provided by * * *’ has been used when the General Assembly intended to grant both exemptions. Since Act 271 does not use the ‘in addition to’ language, it is consistent with the scheme of § 12-7-310 to find the General Assembly intended to allow the \$2,000 exemption in Act 271 in lieu of rather than in addition to the \$800 exemption of § 12-7-310(3).

CONCLUSION:

Although not entirely free from doubt, the General Assembly intended, and Act 271 grants, a \$2,000 exemption which is in lieu of rather than in addition to the \$800 exemption of § 12-7-310(3).

Ray N. Stevens
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