

1982 S.C. Op. Atty. Gen. 33 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-29, 1982 WL 154999

Office of the Attorney General

State of South Carolina

Opinion No. 82-29

April 22, 1982

***1 SUBJECT: Property Tax—Exemption of household goods and furniture.**

(1) Household goods and furniture are exempt from ad valorem taxes when located in second homes such as beach houses, beach condominiums, lake houses and lake condominiums.

(2) Household goods and furniture are exempt from ad valorem taxes when located in second homes even when such homes are occasionally leased to third parties.

TO: Mr. James L. Brodie
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South Carolina Tax Commission

QUESTIONS:

1. Are household goods and furniture exempt from ad valorem taxes when located in second homes such as beach houses, beach condominiums, lake houses and lake condominiums?
2. Are household goods and furniture exempt from ad valorem taxes when located in second homes when such homes are occasionally leased to third parties?

APPLICABLE LAW:

Section 12–37–220A(5) of the 1976 Code of Laws.

DISCUSSION:

Question 1. Section 12–37–220A(5) exempts the following from ad valorem taxes:

‘all household goods and furniture used in the home of the owner of such goods and furniture, such to include built-in equipment such as ranges, dishwashers and disposals, but this exemption shall not apply to household goods used in hotels, rooming houses, apartments or other places of business;’

The issue posed is whether the word ‘home’ applies to second homes such as lake or beach houses or condominiums.

In considering the construction to be given the word ‘home’, the intent of the legislature is of primary concern. [Helfrich v. Brasington Sand and Gravel Co.](#), 268 S.C. 236, 233 S.E.2d 291 (1977). Further, the true guide to such intent is not the phraseology of an isolated section or provision, but the language of the statute as a whole. [City of Columbia v. Niagara Fire Ins. Co.](#), 249 S. C. 388, 154 S. E. 2d 674 (1967).

A reading of § 12-37-220 as a whole reveals that when the legislature desired an exemption to be limited to a single residence, such as in § 12-37-220B(1) and (2), it used the term 'dwelling house' and further defined that term as 'legal residence'. Such language was not used in § 12-37-220A(5). Had the legislature intended to limit the exemption provided for in § 12-37-220A(5) to the legal residence of the owner, it would have stated so as it did in § 12-37-220B(1) and (2).

Question 2. Section 12-37-220A(5) specifically states that household goods and furniture 'used in hotels, rooming houses, apartments or other places of business' do not qualify for exemption from ad valorem taxes. Household goods and furniture located in second homes that are leased to third parties may or may not qualify for exemption depending upon whether or not such leasing is considered a business.

'* * *. The word 'business' when referring to the use of premises means 'an occupation and use of premises, permanent and continuous in its character as distinguished from a single act or business transaction or an occasional day's use of the premises.' 12 C.J.S. p. 770.

***2** It is well established that the phrase 'operation of a business' or 'doing business' denotes a continuing enterprise and an occasional, incidental, isolated or sporadic transaction would not bring one within the meaning of such expressions. * * *.' Freese v. St. Paul Mercury Indemnity Co., Mo.App. 252, 252 S.W.2d 653 (1952).

If it is determined that the lease of the second home is occasional, incidental, isolated or sporadic rather than continuing in nature, the household goods and furniture located therein would be exempt from ad valorem taxes.

CONCLUSION:

1. Household goods and furniture are exempt from ad valorem taxes when located in second homes such as beach houses, beach condominiums, lake houses and lake condominiums.
2. Household goods and furniture are exempt from ad valorem taxes when located in second homes even when such homes are occasionally leased to third parties.

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