

1979 WL 42788 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 31, 1979

**\*1 TO: Henry B. Richardson, Esq.**

**SUBJECT: Property Tax—Homestead Exemptions for Totally and Permanently Disabled Veterans or Paraplegic Persons.**

(1) The exemption provided by § 12-37-220(B)(1) of the dwelling house in which he resides and a lot not to exceed one acre from county and school property for veterans that are one hundred percent permanently and totally disabled from a service-connected disability is exclusive. The veteran cannot qualify for the homestead exemption provided by § 12-37-250.

(2) The exemption provided by § 12-37-220(B)(2) of the dwelling house in which he has residence and a lot not to exceed one acre from county, school and municipal taxes for a paraplegic person is exclusive. The paraplegic persons cannot qualify for the homestead exemption provided by § 12-37-250.

Sumter County Attorney

QUESTIONS:

Section 12-37-220(A)(9) provides for a homestead exemption to be prescribed by the General Assembly for certain totally and permanently disabled persons. Section 12-37-250 sets the exemption at the first \$12,000 of the fair market value of the homestead and the exemption extends to county, school, special service district and municipal taxes. Section 12-37-220(B)(1) grants an exemption for the dwelling house and up to one acre of land belonging to a veteran that is one hundred percent permanently and totally disabled from a service-connected disability. The exemption is, however, limited to county and school taxes. Section 12-37-220(B)(2) provides exemption to a paraplegic person of the dwelling house and up to one acre from county, school and municipal taxes. The questions are whether the disabled veteran may claim the exemption provided by § 12-37-220(B)(1) for county and school taxes and the homestead exemption provided by § 12-37-250 and § 12-37-220(A)(9) for municipal and special service district taxes and whether the paraplegic person can also claim the benefit of both exemptions?

APPLICABLE LAW:

Article 10, Section B and 3(i) of the Constitution; Section 12-37-220(A)(9), (B)(1) and (2) and [Section 12-37-250 of the 1976 South Carolina Code](#) of Laws.

DISCUSSION:

It is necessary to first consider the constitutional provisions as the same relate to this question. Article 10, Section 3(i) provides an exemption from property taxation of:

‘a homestead exemption for persons sixty-five years of age and older, for persons permanently and totally disabled and for blind persons in the amount of ten thousand dollars of the fair market value of the homestead under conditions prescribed by the General Assembly by general law; provided, that the amount may be increased by the General Assembly by general law, passed by a majority vote of both houses;’ (Emphasis added.)

The General Assembly is thus limited in its authority to legislate regarding this exemption in that it may only increase the amount of the exemption (the first \$10,000 of the fair market value of the homestead). [Strong v. City of Sumter](#), 185 S. C. 203, 193 S. E. 649; [Trustees of Wofford College v. Spartanburg](#), 201 S. C. 315, 23 S. E. 2d 9. Insofar as granting other homestead exemptions the General Assembly is further limited by other provisions of Article 10, Section 3 that state:

\*2 'Homestead exemptions from ad valorem taxation not specifically provided for in this section may be provided for by the General Assembly by general law.' (Emphasis added.)

'In addition to the exemptions listed in this section, the General Assembly may provide for exemptions from the property tax, by general laws applicable uniformly to property throughout the State and in all political subdivisions, but only with the approval of two-thirds of the members of each House.'

This language subjects the exemption provided for the disabled veteran and the paraplegic to serious constitutional doubt. The limitation to the General Assembly in creating other homestead exemptions is that the exemption must not be specifically provided for in Section 3 of the Constitution. If the one hundred percent permanently and totally disabled veteran from service-connected disability and the paraplegic are totally and permanently disabled persons within the meaning of the constitutionally-granted exemption, then the statutory exemptions are in conflict with the constitutional limitations.

In considering this, and while there is an apparent conflict, we necessarily rely on the presumption that the statutes granting the exemption to the disabled veteran and the paraplegic persons are constitutional. (For case authority, see Constitutional Law, Section 48). Under this presumption, we conclude that the General Assembly has found that paraplegic persons and veterans who are one hundred percent permanently and totally disabled from a service-connected disability are not included within the constitutionally-granted homestead exemption as implemented by [§ 12-37-250](#) for totally and permanently disabled persons. As a result there are three classes of disabled persons that have been granted separate, different and exclusive homestead exemptions. Without the conclusion here stated, the Sections granting the exemption to the disabled veteran and the paraplegic persons would clearly be unconstitutional. We have serious reservations concerning the interpretation, however, the exemption statutes are to be followed unless judicially declared invalid.

#### CONCLUSIONS:

(1) The exemption provided by [§ 12-37-220\(B\)\(1\)](#) of the dwelling house in which he resides and a lot not to exceed one acre from county and school property for veterans that are one hundred percent permanently and totally disabled from a service-connected disability is exclusive. The veteran cannot qualify for the homestead exemption provided by [§ 12-37-250](#).

(2) The exemption provided by [§ 12-37-220\(B\)\(2\)](#) of the dwelling house in which he has residence and a lot not to exceed one acre from county, school and municipal taxes for a paraplegic person is exclusive. The paraplegic person cannot qualify for the homestead exemption provided by [§ 12-37-250](#).

Joe L. Allen, Jr.  
Deputy Attorney General

1979 WL 42788 (S.C.A.G.)