

1980 S.C. Op. Atty. Gen. 96 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-48, 1980 WL 81931

Office of the Attorney General

State of South Carolina

Opinion No. 80-48

May 7, 1980

***1 SUBJECT: Property Tax—Homestead Exemption—Applicable Ratio**

(1) An Act bearing Ratification No. 360 provides that a homestead exempt in whole or in part by § 12–37–250 is to be taxed upon an assessment equal to four percent of its fair market value. The homestead is limited to not more than five acres of land when the value thereof equals or exceeds fifteen thousand dollars, otherwise the same may exceed five acres.

(2) An application for residential classification is not needed for a homestead that qualifies for the exemption.

TO: Honorable Earle E. Morris, Jr.
Comptroller General

QUESTION:

Act R. 360 in Section 1 provides:

‘Notwithstanding any other provision of law, property that qualifies for the homestead exemption pursuant to [Section 12–37–250 of the 1976 Code](#) shall be classified and taxed as residential on an assessment equal to four percent of such property's fair market value. The county auditor shall notify the county assessor of the property so qualifying and no further application shall be required for such classification and taxation.’

Three questions are presented.

‘1. Does the effect of this new legislation require that only those properties which can be classified as residential property under the existing rules pertaining to the classification of property be allowed the Homestead Tax Exemption; or

2. Does the law require all properties which qualify for the exemption be classified at four percent regardless of the existing regulations regarding classification of residential property; or,

3. Is the law intended to merely make automatic the application for the residential rate once application has been made for the Homestead Exemption?’

APPLICABLE LAW:

Act bearing Ratification No. 360; §§ 12–37–250 and 12–43–220, 1976 Code of Laws; [Article X, Sections 1 and 3 of the South Carolina Constitution](#).

DISCUSSION:

[Section 12–37–250](#) provides in part:

'The first fifteen thousand dollars of the fair market value of the dwelling place of persons shall be exempt from county, municipal, school and special assessment real estate property taxes when such persons have * * *.'

The language of the statute is that the first fifteen thousand dollars of the fair market value of the homestead is exempt. It is thus that part of the homestead that qualifies for the exemption and is under the Act to be taxed on an assessment equal to four percent of such value.

The provision of the Act must, however, be construed and harmonized if possible with § 12-43-220(c) and other related provisions. (For cases see 17 S.C.D., Statutes, Key 223, et seq.) Section 12-43-220(c) provides for the residential classification of certain legal residences and up to five acres of land.

Under such rules of construction the five-acre limitation found in § 12-43-220(c) is not affected by Act R. 360 unless the fair market value of the homestead and the five acres is less than \$15,000. The Act would extend the five-acre limitation in those cases so as to calculate the tax reimbursement for the first fifteen thousand dollars of the homestead at the four percent ratio.

*2 Article X, Section 3(i) provides:

'There shall be exempt from ad valorem taxation:

(i) 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;'

The exemption is now \$15,000 and is not limited to five acres by the above constitutional provision. In the absence of the statutes that provide for reimbursement to the taxing entity the ratio applicable to the exempt part of the homestead would be immaterial. In other words, the ratio as applied to the exemption is used only to calculate the amount of State funds that will be distributed to the taxing entity by reason of the exemption. There is thus no conflict with the Act and the five-acre limitation for residential classification found in Article X, Section 1(3) and Section 12-43-220(c).

Likewise, when the property qualifies for the exemption no further application for the residential classification is needed. The application would include the property that constitutes the homestead up to the five-acre limitation when the same has a fair market value of more than fifteen thousand dollars. It would include, however, more than five acres when such has a fair market value equal to or less than fifteen thousand dollars.

Additional support for the conclusion herein stated is that prior to the enactment of R. 360 the State in some cases was reimbursing taxing entities at six percent of the value of the exemption when no application for the residential classification was made. Additionally, some persons made an application for the exemption and not the classification. The purpose of this Act was to eliminate the need for both applications and to further limit the reimbursement to the proper amount.

CONCLUSIONS:

(1) Act R. 360 provides that a homestead exempt is whole or in part by § 12-37-250 is to be taxed upon an assessment equal to four percent or its fair market value. The homestead is limited to not more than five acres of land when the value thereof equals or exceeds fifteen thousand dollars, otherwise the same may exceed five acres.

(2) An application for residential classification is not needed for a homestead that qualifies for the exemption.

Joe L. Allen, Jr.
Deputy Attorney General

1980 S.C. Op. Atty. Gen. 96 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-48, 1980 WL 81931

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.