

1980 S.C. Op. Atty. Gen. 120 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-70, 1980 WL 81952

Office of the Attorney General

State of South Carolina

Opinion No. 80-70

June 12, 1980

***1 SUBJECT: Property Tax-Homestead Exemption—Amount Where Qualified Person Owns Part of Homestead In Fee or For Life.**

When a surviving spouse obtains the complete fee or life estate of a homestead within nine months of the date of death of the deceased spouse and the deceased spouse was entitled to the homestead exemption, the full amount of the homestead exemption is to be granted. If the complete fee or life estate is not granted and the surviving spouse owns part of the homestead in fee or for life and the other conditions for the exemption are satisfied, the amount of the exemption is calculated by applying the spouse's percentage of ownership in the home stead to the full amount of the exemption if the value of the homestead is fifteen thousand dollars or more. If the value of the homestead is less than fifteen thousand dollars, the amount of the exemption would be that percentage of the homestead's value.

TO: Mr. Ernest W. Cooler
Assistant Comptroller General
Local Government Division

QUESTION:

A homestead is jointly owned by a husband and wife. The husband was entitled to the homestead exemption, however, died intestate on June 30, 1979 and is survived by the wife and six children. What is the amount of the exemption to be granted?

APPLICABLE LAW:

§ 12-37-250 and a 1980 Act bearing Ratification No. 359.

DISCUSSION:

Two possibilities exist. The first is that found in § 12-37-250 which is as follows:

‘When any person who was entitled to a homestead tax exemption under this section dies and the surviving spouse is at least fifty years of age and acquires complete fee simple title or a life estate to the dwelling place within nine months after the death of the spouse such dwelling place shall be exempt from real property taxes to the same extent and obtained in accordance with the same procedures as is provided for in this section for an exemption from real property taxes so long as the spouse remains unmarried and such dwelling place is utilized as the permanent home and legal residence of such spouse.’

If that provision is applicable and the surviving spouse obtains the complete fee or life estate in the homestead within nine months from June 30, 1979, the full exemption should be granted for those years for which the ownership requirements are satisfied.

If, however, that provision is not applicable and the surviving spouse otherwise meets the conditions for the exemption, the amount of the exemption would be determined by the 1980 Act R. 359 that provides:

'The homestead tax exemption shall be granted in the amount herein provided to those persons who own a dwelling in part in fee or in part for life when such persons satisfy the other conditions of the exemption. The amount of the exemption shall be determined by multiplying the percentage of the fee or life estate owned by such person to the full exemption. The exemption shall not exceed the value of the interest owned by such person. For purposes of the exemption, each owner of a part of the fee or life estate shall be deemed to own equal interest in the homestead.'

*2 Seven persons thus own equal shares or interest in the homestead. The surviving spouse's ownership equals 14.285 percent of the homestead. If the value of the homestead is fifteen thousand dollars or more, the amount of the exemption would be 14.285 percent of the fifteen thousand dollars, or \$2,142.75. If the value of the homestead is less than fifteen thousand dollars the amount of the exemption would be that percentage, 14.285 percent, of that value.

CONCLUSION:

When a surviving spouse obtains the complete fee or life estate of a homestead within nine months of the date of death of the deceased spouse and the deceased spouse was entitled to the homestead exemption, the full amount of the homestead exemption is to be granted. If the complete fee or life estate is not granted and the surviving spouse owns part of the homestead in fee or for life and the other conditions for the exemption are satisfied, the amount of the exemption is calculated by applying the spouse's percentage of ownership in the homestead to the full amount of the exemption if the value of the homestead is fifteen thousand dollars or more. If the value of the homestead is less than fifteen thousand dollars, the amount of the exemption would be that percentage of the homestead's value.

For purposes of calculating the amount of the exemption, all owners are deemed to own equal interest in the homestead.

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