

1980 S.C. Op. Atty. Gen. 109 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-65, 1980 WL 81948

Office of the Attorney General

State of South Carolina

Opinion No. 80-65

June 5, 1980

***1 SUBJECT: Property Tax—Homestead Exemption—Ratio for Reimbursement.**

If residentially classed property within a taxing entity is taxed upon an assessment that is less than four percent of its fair market value, the amount of the homestead exemption reimbursement is likewise to be calculated upon the assessment ratio so used.

TO: Mr. Michael Horton
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QUESTION:

Some taxing entities that are reimbursed for the homestead exemption are applying a ratio of less than four percent to the fair market value of residentially classed property for purposes of determining the assessed value of such property. Is the reimbursement for the homestead exemption to be calculated upon four percent or the lesser ratio in such cases?

APPLICABLE LAW:

[Section 12–37–270, 1976 Code](#) of Laws; an Act of 1980 bearing Ratification Number R. 360.

DISCUSSION:

The language of the 1980 Act provides in part that:

‘Notwithstanding any other provision of law, property that qualifies for the homestead exemption pursuant to Section 12–37–250 shall be classified and taxed as residential on an assessment equal to four percent of such property's fair market value.’

Standing alone this language would require the homestead to be ‘taxed’ on an assessment equal to four percent of the property's value. It is a settled rule of construction, however, that all statutes relating to the same subject are to be construed together and harmonized where possible. (For cases, see 17 S. C. Digest, [Statutes](#), Keys 223.1 and 223.2.) Another settled rule of construction is that legislative intent controls. (For cases, see 17 S. C. Digest, [Statutes](#), Key 180, et seq.)

The preamble of the 1980 Act provides:

‘Whereas, the General Assembly finds that some persons who qualify for the homestead exemption fail by reason of misunderstanding to file an application for the residential classification of the homestead. The effect of such is the taxation of the homestead at the six percent ratio rather than the four percent ratio. This act is adopted in order to eliminate this confusion and the resultant higher tax for the elderly, the disabled and the blind.’

Such reflects legislative intent to treat only those cases where the homestead exemption was calculated at a ratio greater than four percent.

Consideration must also be given to [Section 12-37-270](#) that provides in part that:

‘The Comptroller General shall annually pay to the * * * a sum equal to the amount of taxes that was not collected * * * by reason of the exemption * * *.’

Under this statute only the amount of tax not collected because of the exemption is to be paid the taxing entity.

A review of the preamble of the 1980 Act reveals that the General Assembly intended to limit the reimbursement to not more than the tax calculated on an assessment equal to four percent of the homestead's value. The purpose of the Act was to prohibit reimbursement at a greater rate.

*2 In this context and with the clear language of [Section 12-37-270](#), we do not find intent to grant a windfall to a taxing entity by reimbursing the entity in excess of the tax not collected by reason of the exemption.

Further support for the conclusion here stated is found in the economic impact statement furnished the General Assembly and considered by it in adopting the 1980 Act. The statement is that no additional funds would be required by this Act and that the Act would actually save revenue. Such would result by reducing the disbursements made at the six percent ratio to the four percent ratio, but not by increasing the disbursements to four percent from a lesser ratio.

CONCLUSION:

If residentially classed property within a taxing entity is taxed upon an assessment that is less than four percent of its fair market value, the amount of the homestead exemption reimbursement is likewise to be calculated upon the assessment ratio so used.

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