

1979 S.C. Op. Atty. Gen. 68 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-54, 1979 WL 29060

Office of the Attorney General

State of South Carolina

Opinion No. 79-54

March 16, 1979

***1 SUBJECT: Property Tax—Mobile Homes—When Not Used As a Residence—License and Tax Requirements**

- (1) The provisions of Chapter 17 of Title 31 relate to mobile homes that are used for dwelling purposes.
- (2) The provisions of § 44-55-820 relate to mobile homes that are used for dwelling purposes.
- (3) The license required by § 31-17-320 is the exclusive means of certifying compliance with the provisions of §§ 31-17-70 and 44-55-820 for mobile homes used for dwelling purposes.
- (4) Mobile homes used for nonresidential purposes and not annexed to the land are to be taxed where situated if used in a business and if not used in a business or as a residence, then at the residence of the owner if he resides in the State or, if not, at the residence of the person having it in charge and the same are to be taxed as personal property.
- (5) If the mobile home is used for nonresidential purposes and is annexed to the land, it is taxable as realty where located.
- (6) If the mobile home is used for nonresidential purposes, a building or construction permit may be required by local ordinance as directed by § 12-43-240.

TO: Honorable James E. Shuler
Berkeley County Assessor

QUESTION:

A 'mobile home', as the term is generally understood, is used for business or nonresidential purposes. Is it necessary that a license or moving permit be obtained therefor? Additionally, where and how is such mobile home to be taxed?

APPLICABLE LAW:

Chapter 17 of Title 31; Article 9 of Chapter 55 of Title 44, and [§ 12-37-890 of the 1976 South Carolina Code](#) of Laws.

DISCUSSION:

'Mobile homes' are situate in your county and used for business and nonresidential purposes. You inquire of the license and tax requirements therefor.

Under the express language of § 31-17-320 (Act 576, Acts of 1978) the license is required only when the mobile home is to be used for residential purposes. The statute provides in part that:

'Within fifteen days after bringing a mobile home into this State, or the purchase of a mobile home in the State, for dwelling purposes, the owner * * * shall obtain a license * * *.' (Emphasis added)

We have previously concluded that § 31-17-360, that requires a moving permit to relocate a mobile home is applicable only to those mobile homes required to have the license (see O.A.G. of January 8, 1979). Additionally, we have also concluded that the license for mobile homes is the exclusive means of certifying compliance with §§ 31-17-70 and 44-55-820 (see O.A.G. of March 1, 1979). Both of these opinions related to the mobile home for which the license is required.

Here presented is a different situation, that being whether certification of compliance with these two sections is necessary and if so how is the same to be accomplished for mobile homes with a nonresidential use.

The provisions of § 31-17-70 are not applicable to a mobile home used for nonresidential purposes. Section 31-17-20(a) defines a mobile home to mean:

2 ‘ * * a manufactured single family dwelling or an integral part over thirty-five feet in length, or over eight feet in width, so constructed that it may be transported from one site to another, temporarily or permanently affixed to real estate, made up of one or more components, and constructed with the same or similar electrical, plumbing, heating and sanitary facilities as onsite constructed housing.’ (Emphasis added)

The South Carolina Fire Marshall has similarly defined a mobile home by Budget and Control Board—Fire Marshall Regulation 19-51.

It is therefore not necessary for the certification required by § 31-17-70 to be furnished for mobile homes used for nonresidential purposes.

Section 44-55-820 provides in part:

‘No such certificate, license, or permit shall be issued by the county or municipality without a permit from the county health department approving the method of sewage disposal; nor shall such permit, certificate or license be issued until evidence is presented that all other appropriate safety and health regulations, permits, codes and ordinances have been complied with. Such permits, certificates or licenses shall state the location of the approved site. * * *.’

This provision, however, does not apply to mobile homes used for nonresidential purposes. This is a part of Act 257, Acts of 1975, and § 44-55-810 sets forth the legislative purpose therefor. The same is that:

‘The General Assembly, having considered the problems associated with proper sewage disposal, finds that many mobile, modular and permanently constructed homes are being constructed, located, and installed in areas of this State which will not support an individual sewage disposal system, and further finds that this situation has resulted in the discharge of sewage to the ground or to adjacent waters. To correct his problem is the purpose of this article.’ (Emphasis added)

We do not find where a mobile home has been defined by regulation of the Department of Health and Environmental Control for this specific statute. A definition has however been published in their [regulation 61-40\(1\)](#) and means:

‘* * * a transportable dwelling unit suitable for year-round occupancy and containing the same water supply, waste disposal and/or electrical conveniences as immobile housing. This shall include both dependent and independent mobile homes.’ (Emphasis added)

It is thus evident that § 44-55-820 applies to mobile homes used as homes and not otherwise.

The license is thus the exclusive method of certifying compliance with §§ 31-17-70 and 44-55-820 for those mobile homes included within such sections, those used for residences.

We now consider the mobile home that is used for nonresidential purposes and the requirements for a building or construction permit and the taxation thereof.

It should be noted that § 31–17–330 provides in part that:

‘* * *. Licenses required by this article shall be in lieu of any building or construction permit now required by local act or ordinance.’

*3 As stated above, no license is required for a mobile home when used for nonresidential purposes. The above-quoted provision would thus not be applicable to such mobile homes, however, the building or construction permit would be applicable if the county ordinance provides therefor.

Section 12–43–240 provides:

‘All counties shall require by law or ordinance that building permits be issued to persons engaging in new construction or renovation and such permits shall correspond to minimum requirements of the Commission. The county shall furnish a copy of the building permit to the assessor within ten days after such issuance.’

Section 31–17–330 reflects legislative intent that the building or construction permit was required for mobile homes used for residential purposes, otherwise, there would have been no need to provide that the license be in lieu thereof. Under such reasoning the building or construction permit would probably be required for the mobile home if used for nonresidential purposes.

We come now to the question of where mobile homes are to be taxed when used in a business. [Section 12–37–890](#) provides that personal property used in a business is to be taxed where ‘situated’. That term has been defined to be situs. [Colonial Life & Acc. Ins. Co. v. South Carolina Tax Commission](#), 233 S.C. 129, 103 S.E.2d 908.

If the mobile home has a tax situs in your county it would be subject to taxation by the county notwithstanding that the principal office of the business was in another county. If it is not used in a business or for residential purposes, it is taxable where the owner resides, if he resides in this State, if not, at the residence of the person having it in charge. [Section 12–37–890](#).

It should be noted that the above treats these mobile homes as personal property because it is assumed that there has been no annexation of the same to the realty. Such is by reason of § 12–43–230 that provides that only mobile homes designed for year-round residential use are to be taxed as real property. Should, however, there be an annexation of the mobile home to the land so as to be a part thereof, the same would be taxed as real property.

CONCLUSION:

- (1) The provisions of Chapter 17 of Title 31 relate to mobile homes that are used for dwelling purposes.
- (2) The provisions of § 44–55–820 relate to mobile homes that are used for dwelling purposes.
- (3) The license required by § 31–17–320 is the exclusive means of certifying compliance with the provisions of §§ 31–17–70 and 44–55–820 for mobile homes used for dwelling purposes.
- (4) Mobile homes used for nonresidential purposes and not annexed to the land are to be taxed where situated if used in a business and if not used in a business or as a residence, then at the residence of the owner if he resides in the State or, if not, at the residence of the person having it in charge and the same are to be taxed as personal property.

(5) If the mobile home is used for nonresidential purposes and is annexed to the land, it is taxable as realty where located.

***4** (6) If the mobile home is used for nonresidential purposes, a building or construction permit may be required by local ordinance as directed by § 12-43-240.

Joe L. Allen, Jr.
Deputy Attorney General

1979 S.C. Op. Atty. Gen. 68 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-54, 1979 WL 29060

End of Document

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