

1980 S.C. Op. Atty. Gen. 129 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-80, 1980 WL 81962

Office of the Attorney General

State of South Carolina

Opinion No. 80-80

July 18, 1980

***1 SUBJECT: Property Tax—Exemption—Disabled Veteran**

The spouse of a person who dies while in military service without a separation or discharge therefrom is not entitled to the exemption provided by § 12-37-220(B)(1) because such person was not a veteran.

TO: Mr. Hoyt B. Hill, Jr.
Director
Department of Veterans Affairs

QUESTION:

Does the exemption provided by § 12-37-220(B)(1) include the residence of the spouse of a person who died while on active duty in the Armed Forces of the United States?

APPLICABLE LAW:

[§ 12-37-220\(B\)\(1\) of the 1976 Code](#) of Laws.

DISCUSSION:

The section exempts from taxation certain property of ‘any veteran who is one hundred percent permanently and totally disabled from a service-connected disability’. The exemption is also granted to the veteran's surviving spouse under certain conditions.

The controlling word in the question presented is ‘veteran’. Webster's New Collegiate Dictionary defines a veteran as follows: ‘An ex-member of the military or naval service who by length and type of service, or degree of disablement, honorable discharge or release, and otherwise, meets statutory requirements precedent to the extension of benefits provided by law for ex-servicemen.’

Additionally, [38 U.S.C.A. § 101](#) defines a veteran to mean:

‘* * * a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.’

See also [5 U.S.C.A. § 2108](#) that defines a ‘disabled veteran’ to be:

‘* * * an individual who has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans' Administration or a military department;’

Under such, a person who died on active duty without separation from a military service would not be a veteran.

CONCLUSION:

The spouse of a person who dies while in military service without a separation or discharge therefrom is not entitled to the exemption provided by § 12-37-220(B)(1) because such person was not a veteran.

Joe L. Allen, Jr.
Deputy Attorney General

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