

1977 S.C. Op. Atty. Gen. 58 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-56, 1977 WL 24398

Office of the Attorney General

State of South Carolina

Opinion No. 77-56

February 11, 1977

*1 The owner of a house which is furnished to a divorced spouse under a divorce decree is not taxable at the special ratio provided for legal residences.

To: Mr. Robert S. Floyd
Florence County Tax Assessor

QUESTION

Does the owner of a house qualify for the special legal residence ratio when the house is furnished to and occupied by a divorced spouse under a divorce decree?

STATUTE

Act No. 618 of the 1976 General Assembly.

DISCUSSION

In 1976 the General Assembly amended Act 208 of 1975 which provides a special tax ratio for legal residences. The pertinent part of such act, as amended, is as follows:

‘Section 4(c). The legal residence and not more than 5 acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of such interest, shall be taxed on an assessment equal to _____.’ (Emphasis is made by underlining the key words relied upon in this opinion)

Our courts have held that the term ‘residence’ may mean actual physical presence. [Ravenel v. Dekle](#), 265 S. C. 364, 218 S. E. 2d 521; [LaTourette v. McMaster](#), 104 S. C. 501, 89 S. E. 398 (1916), affirmed, 248 U. S. 465, 39 S. Ct. 160, 63 L. Ed. 362 (1919); [Tedars v. Savannah River Veneer Co.](#), 202 S. C. 363, 25 S. E. 2d 235 (1943).

The intent and purpose of the statute must be ascertained as was stated in the [Ravenel](#) case. In this respect the additional word ‘owned’ and term ‘occupied by the owners’ must be examined. ‘Occupy’ is defined in [Webster's New Collegiate Dictionary](#) as follows:

‘1. To take or enter upon possession of, as a place by settling in it or conquering it. 2. To take up, or have place in, the extent (in space or time) of; fill; as the camp occupies five acres. 3. To be in possession of on tenure; hold, as an office; dwell in, as a tenant.’

The simple definition of this word coupled with the words ‘by the owner’ and ‘legal residence’ clearly expresses an intent that the person applying for the special tax ratio for legal residence be in fact a resident of and occupy the house. Thus a house furnished under a divorce decree to the divorced spouse does not qualify for the special tax ratio.

CONCLUSION

The owner of a house which is furnished to a divorced spouse under a divorce decree is not taxable at the special ratio provided for legal residences.

G. Lewis Argoe, Jr.
Assistant Attorney General

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