

1978 S.C. Op. Atty. Gen. 110 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-82, 1978 WL 22563

Office of the Attorney General

State of South Carolina

Opinion No. 78-82

May 4, 1978

***1 SUBJECT: Homestead Exemption—Surviving Spouse—Entitled To The Exemption From The Effective Date of The Act Forward If Other Requirements For The Exemption Are Satisfied.**

A surviving spouse who became such prior to the effective date of the provisions of § 12–37–250 that provides a homestead exemption for a surviving spouse is entitled to the exemption for years subsequent to the effective date of the statute provided the other requirements for the exemption are satisfied.

TO: Honorable Gerald W. Burnett
Deputy Comptroller

QUESTION:

Can the surviving spouse of a person who was entitled to the homestead exemption whose spouse died prior to the effective date of the provisions of § 12–37–250 that provide for the exemption to a surviving spouse qualify for the exemption?

STATUTE:

[Section 12–37–250, 1976 Code of Laws of South Carolina,](#)

DISCUSSION:

The statute relating to the exemption for a surviving spouse creates a class of persons that are entitled to the exemption. The whole class is entitled to the exemption from the effective date of the Act.

We find nothing in the Act that subdivides the class into the surviving spouse who became such before the exemption was provided and the surviving spouse who became such after the enactment of the exemption. The exemption is, therefore, for the whole class, that is, all surviving spouses that meet the other requirements of the section.

This conclusion does not give the statute retrospective effect since the exemption is only granted for the tax year in which the statute is enacted (if prior to May 1) and subsequent tax years.

CONCLUSION:

A surviving spouse who became such prior to the effective date of the provisions of [§ 12–37–250](#) that provides a homestead exemption for a surviving spouse is entitled to the exemption for years subsequent to the effective date of the statute provided the other requirements for the exemption are satisfied.

Joe L. Allen, Jr.

Deputy Attorney General

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