

1978 S.C. Op. Atty. Gen. 110 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-83, 1978 WL 22564

Office of the Attorney General

State of South Carolina

Opinion No. 78-83

May 5, 1978

**\*1 SUBJECT: Homestead Exemption-Surviving Spouse**

A surviving spouse, in order to qualify for the homestead exemption, must possess the necessary ownership of the homestead on December 31 preceding the year for which the exemption is claimed.

TO: Honorable Gerald W. Burnett  
Deputy Comptroller General

**QUESTION:**

When is it necessary for the surviving spouse to possess a life estate or fee simple title in a homestead for which the exemption is claimed?

**STATUTE:**

Section 12-37-250 as amended by an Act of 1978 bearing ratification number R 498.

**DISCUSSION:**

The statute provides an exemption for a surviving spouse that is fifty-seven years of age and acquires a fee simple or life estate to the dwelling place of the deceased spouse. The necessary title must be acquired 'within nine months after the death of the spouse'. The exemption is authorized when the surviving spouse remains unmarried and the dwelling place is 'utilized as the permanent home and legal residence of such spouse'. It is also necessary that the application for the exemption be timely made before May 1 of the year in which the exemption is claimed.

The language of Section 12-37-250 otherwise provides in part that:

'The first ten thousand dollars of the fair market value of the dwelling place of persons shall be exempt from county, school, and special assessment real estate property taxes when such persons have been residents of this State for at least one year, have each reached the age of sixty-five years on or before December thirty-first or any person who has been classified as totally and permanently disabled by a State or Federal agency having the function of so classifying persons or any person who is legally blind as defined in § 43-25-20, preceding the tax year in which the exemption herein is claimed and hold complete fee simple title or a life estate to the dwelling place. \* \* \*.'

It is evident that the date of December 31 preceding the tax year for which the exemption is claimed controls the status; in example, ownership and value of the property for purposes of the exemption. A person who was not sixty-five, disabled or blind or who did not own the necessary title on December 31 could not be granted the exemption notwithstanding that such conditions were reached or acquired immediately thereafter. We find nothing in the statute that grants the surviving spouse the exemption unless all conditions were likewise satisfied on December 31 preceding the year for which

the exemption is claimed. Support for this conclusion is found in the well-settled rule that all statutes relating to the same subject are to be considered.

‘Statutes in pari materia have to be construed together and reconciled, if possible, so as to render both operative.’ [Lewis v. Gaddy](#), 254 S. C. 66, 173 S. E. 2d 376.

The settled law is that the date of December 31 controls the tax status of the property for tax purposes.

\*2 ‘Under our taxing system, there have always been inequalities and inequities resulting from the fact that the tax for an entire year is contingent under § 65–1644 on possession or control on the 31st day of December next preceding the tax year in question.’ [Atkinson Dredging Co. v. Thomas](#), 266 S. C. 361, 223 S. E. 2d 592.

To conclude that a different date was available to a surviving spouse would provide the surviving spouse greater latitude in satisfying the requirements for the exemption than provided for persons over sixty-five or who are blind or disabled.

#### CONCLUSION:

A surviving spouse, in order to qualify for the homestead exemption, must possess the necessary ownership of the homestead on December 31 preceding the year for which the exemption is claimed.

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