

1978 S.C. Op. Atty. Gen. 193 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-165, 1978 WL 22633

Office of the Attorney General

State of South Carolina

Opinion No. 78-165

October 4, 1978

***1 SUBJECT: Property Tax—Homestead Exemption—The necessity to file the certificate of continuing eligibility with the auditor.**

The certificate of eligibility for the homestead exemption must be filed ‘with the county auditor’ and this is not satisfied by depositing the certificate in the mails.

TO: Mr. Jack Q. Gerrald
Horry County Auditor

QUESTION:

Is it necessary that the certificate of qualification for the homestead exemption be received by the auditor as a condition precedent to granting the exemption, or is the deposit of the same in the mails sufficient?

APPLICABLE LAW:

[§§ 12–37–250](#) and [12–37–255](#) of the 1976 Code of Laws.

DISCUSSION:

The homestead exemption is granted by [§ 12–37–250](#) which provides in part that:

‘The exemption shall not, however, be granted unless such persons or their agents make written application therefor on or before May first * * *. The application * * * shall be made to the auditor * * * and a failure to so apply shall constitute a waiver of the exemption for that year * * *.’

[Section 12–37–255](#) provides in part that:

‘(a) No person, after having obtained a homestead exemption pursuant to [§ 12–37–250](#) shall be required to reapply for such exemption unless he moves from his dwelling place or conveys by sale or otherwise his fee simple title or life estate in such dwelling place. However, every person, in order to retain the exemption, shall annually file a certificate of eligibility by May first of the current tax year with his county auditor. For this purpose, every county auditor shall prior to January first of each year mail a certificate to each person having such exemption together with a return addressed envelope or postcard upon which the required certificate is printed. * * *.’ (Emphasis added)

The mailing of the certificate would not satisfy the requirement that the certificate be ‘filed’ with your office.

‘Document is not usually ‘filed’ when it is deposited in mails, and risk of loss or delay in transit is on sender.’ [Wirtz v. Local Union 169](#), 246 F. Supp. 741. See also [16A Words and Phrases](#), ‘File’, for other cases.

CONCLUSION:

The certificate of eligibility for the homestead exemption must be 'filed' with the county auditor and this is not satisfied by depositing the certificate in the mails.

Joe L. Allen, Jr.
Deputy Attorney General

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