

1978 S.C. Op. Atty. Gen. 243 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-211, 1978 WL 22679

Office of the Attorney General

State of South Carolina

Opinion No. 78-211

December 27, 1978

**\*1 SUBJECT: Property Tax—Homestead Exemption—Qualifying Ownership Date for Surviving Spouse.**

A surviving spouse must possess the necessary ownership of the homestead on December 31 preceding the tax year for which the exemption is claimed.

TO: Honorable John E. Roberts, Jr.  
Chester County Auditor

**QUESTION:**

A person qualified for the homestead exemption dies prior to December 31 and the surviving spouse either inherits none or a part interest in the homestead. After December 31 and within nine months of such death, the surviving spouse acquires a complete fee simple or life estate to the homestead. Does such satisfy the ownership requirements for the tax year following death of the deceased spouse?

**APPLICABLE LAW:**

Sections 12–37–250, 12–37–900. Act No. 644, Acts of 1978.

**DISCUSSION:**

The Act providing the exemption states in part that:

‘When any person who was entitled to a homestead tax exemption \* \* \* dies and the surviving spouse \* \* \* acquires complete fee simple title or a life estate to the dwelling place within nine months after the death of the spouse such dwelling place shall be exempt from real property taxes to the same extent and obtained in accordance with the same procedures \* \* \*.’ Act No. 644, Acts of 1978.

Statutes relating to the taxation of such property must be construed together and harmonized where possible. See cases collected in 17 South Carolina Digest, Statutes, Key 223.

Under the above fact, neither the surviving spouse nor the deceased spouse was the owner of the homestead on December 31, therefore, the exemption cannot be granted.

The taxable status of property, that is ownership, value, etc., unless otherwise provided is December 31 preceding the tax year.

‘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 Sec. 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.

The surviving spouse may be a part owner of the homestead or may not possess any interest in the same on that date. However, if within nine months of the death of the deceased spouse, the necessary ownership is acquired by the surviving spouse, then the exemption can be granted for subsequent tax years. To conclude otherwise would result in persons other than the surviving spouse receiving the exemption.

The conclusion above stated is fortified by the rule that exemption statutes are subject to strict construction with doubt resolved in favor of the tax and against the exemption. [Chronicle Publishers, Inc. v. South Carolina Tax Commission](#), 244 S. C. 192, 136 S. E. 2d 261.

CONCLUSION:

A surviving spouse must possess the necessary ownership of the homestead on December 31 preceding the tax year for which the exemption is claimed.

\*2 Joe L. Allen, Jr.  
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