

1978 S.C. Op. Atty. Gen. 238 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-205, 1978 WL 22673

Office of the Attorney General

State of South Carolina

Opinion No. 78-205

December 7, 1978

***1 SUBJECT: Property Tax—Homestead Exemption—Qualifying Spouse.**

The homestead exemption is not available to a surviving spouse when the deceased spouse during lifetime failed to satisfy the required conditions for the exemption.

TO: Honorable Laura J. Cone
Allendale County Auditor
Allendale, South Carolina 29810

QUESTION:

A person, who was totally and permanently disabled on or before December 31, 1976, acquired complete fee simple title to a homestead in August or September 1977. Such person, however, died before December 31, 1977 and the surviving spouse acquired the homestead. The surviving spouse is fifty-nine years of age and the question is whether such spouse is eligible for the homestead for the 1979 tax year?

STATUTE:

Section 12–37–250.

DISCUSSION:

The statute provides in part that:

‘When any person who who entitled to a homestead tax exemption under this section dies and the surviving spouse is at least fifty-seven years of age and acquires complete fee simple title or a life estate to the dwelling place such dwelling place shall be exempt from real property taxes to the same extent and obtained in accordance with the same procedures as is provided for in this section for an exemption from real property taxes so long as the spouse remains unmarried.’ (Emphasis added.)

The statute otherwise provides that:

‘The first twelve thousand dollars of the fair market value of the dwelling place of persons shall be exempt from county, municipal, 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 Section 43–25–20 preceding the tax year in which exemption herein is claimed and hold complete fee simple title or a life estate to the dwelling place.’ (Emphasis added.)

Under this language no exemption could have been granted the deceased spouse because such person did not own the complete fee simple to the homestead on December 31, 1976. That was the last date the deceased spouse could have qualified for the exemption.

We regret the conclusion here reached, however, are governed by the accepted rule that tax exemption statutes are to be strictly construed with doubt resolved against the exemption. See cases collected in 17 S. C. D., Taxation, § 204.

CONCLUSION:

The homestead exemption is not available to a surviving spouse when the deceased spouse during lifetime failed to satisfy the required conditions for the exemption.

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