

1975 WL 29573 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1975

\*1 A trustee vested with legal title to property is not entitled to the homestead exemption notwithstanding that the property is held for the use of a person over sixty-five years for such person's life.

Honorable Jeanette K. Hamm  
Newberry County Auditor  
Newberry County Court House  
Newberry, South Carolina 29108

Dear Mrs. Hamm:

Reference is made to your letter of March 4, 1975, requesting an opinion whether or not the homestead exemption would apply to certain property held in trust under the terms of a will (copy enclosed) for the use of the testator's widow during her lifetime. The property is used as the place of residence of the widow who is seventy-two years of age.

It is well settled that exemption statutes are strictly construed and anyone claiming the benefits of an exemption statute must clearly come within its requirements.

'Constitutional and statutory language creating exemptions from taxation will not be strained or liberally construed in favor of the taxpayer claiming the exemption. He must clearly bring himself within the constitutional or statutory language upon which he relies.' [Your County Fair Association v. South Carolina Tax Commission](#), 249 S. C. 337, 154 S. E. 2d 361.

It has been the consistent opinion of this office that the requirements of ownership must be met, otherwise the exemption will not be allowed. Under the terms of the will establishing the trust, the trustee is vested with legal title to all property of the testator and is given full and complete authority over all of the property. See [76 Am. Jur. 2d., Trusts](#), Section 97. The trustee, therefore, is liable for the taxes. Under these circumstances the trust would not qualify for the exemption. Yours very truly,

G. Lewis Argoe, Jr.  
Assistant Attorney General

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