

1975 S.C. Op. Atty. Gen. 241 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4189, 1975 WL 22484

Office of the Attorney General

State of South Carolina

Opinion No. 4189

November 19, 1975

***1 The land area for both the homestead exemption and for the classification of the legal residence for property tax purposes must be ascertained and the homestead exemption is without acreage limitation while that for classification is limited to five acres.**

Barnwell County Tax Assessor

We have your letter of November 14, 1975, concerning the homestead exemption for persons over sixty-five or that are disabled or blind and the homestead classification as set forth in Act No. 208, Acts of 1975. You advise that:

‘A taxpayer qualified to receive the homestead exemption lives in a house situated on a 200 acre parcel of land. The house and five (5) acres have a fair market value of \$7,000, therefore, the taxpayer will pay no tax on it. Will the remaining \$3,000 of the exemption be applied to the fair market value of the remaining 195 acres, or, will the homestead exemption be applied only to the qualified taxpayer's legal residence and no more than five (5) acres of land?’

Request is made for the opinion of this office of:

‘With regard to Act No. 208 of the General Assembly of the State of South Carolina, 1975, how does paragraph C of section 2 pertaining to the legal residence and not more than five (5) acres of land contiguous thereto affect the present homestead exemption law providing for a \$10,000 exemption to qualified persons without regard to number of acres of homestead?’

The significant difference between the two is (a) the degree of ownership required by the two Acts vary, and (b) the homestead exemption recognizes that the homestead may exceed five acres while the classification restricts the same to five acres. It must be remembered that what is involved is the ‘permanent home and legal residence’. What land area is included as a part thereof is factual and must be determined by each case. For purposes of the homestead exemption, it is the first \$10,000 of fair market value that is exempt without limitation as to the land area that is a part thereof. For classification purposes, however, the homestead may ‘not’ exceed five acres, and when the same in fact does exceed such acreage, then the five acres are to be taxed at 4% of fair market value and the remainder at 6% of fair market value. Agricultural lands are different from the homestead lands.

Thus, the homestead with its land area must be ascertained for both the homestead exemption and property classification purposes. The exemption is limited to the first \$10,000 value without further limitations by land area (if in fact a part of homestead) while the classification is limited to five acres.

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