

1974 S.C. Op. Atty. Gen. 296 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3872, 1974 WL 21371

Office of the Attorney General

State of South Carolina

Opinion No. 3872

October 18, 1974

***1 Only one pension exemption is allowable under the provisions of Section 65–225(11) although the income may come from more than one established pension program.**

Director

Income Tax Division

South Carolina Tax Commission

You have requested an opinion of this office on the effect of a recent amendment to Section 65–225 of the Code which adds Subsection 65–225(11). See Act No. 987, 1974 Acts and Joint Resolutions at 2120. The new subsection reads as follows:

‘Any retired person who attains the age of sixty-five before the close of the taxable year and who receives income under an established pension program shall be allowed an exemption of twelve hundred dollars of such pension income annually in each taxable year.’

The specific question you have asked is whether two or more twelve hundred dollar exemptions are to be allowed in the case of a retired person who receives income under two or more pension programs.

The Act is ambiguous. However, when an income tax exemption is in question, the general rule is that the statute is to be strictly construed against the taxpayer. See *71 Am. Jur. 2d, State and Local Taxation, Section 449*, citing *Miller v. McColgan*, 17 Cal. 2d 432, 110 P. 2d 419 and *Wheelwright v. Tax Commission*, 235 Mass. 584, 127 N. E. 523, 37 A.L.R. 920.

Nothing in the exemption statute indicates that the General Assembly contemplated allowing two or more twelve hundred dollar exemptions for a person who receives his total pension income from two or more sources, and it is our opinion, based on a strict construction of the statute that only one pension exemption is allowable, although the income may come from more than one established pension program.

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