

1972 WL 26127 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 11, 1972

*1 (1) When a mobile home is permanently attached to the land and is the legal residence of a person who otherwise qualifies for the homestead exemption and is owned by such person in fee simple, then the same is exempt by the homestead exemption.

(2) A mobile home that is not real property is not subject to the homestead exemption.

Honorable E. P. Riley
Greenville County Attorney
P. O. Box 10084, F. S.
Greenville, South Carolina 29603

Dear Mr. Ted:

Your letter of January 7, 1972, to Mr. McLeod has been handed this writer for attention and reply. You request the opinion of this office concerning the applicability of the exemption provided in Senate Bill No. 651, Acts of 1971, now codified as Section 65-1522.1, to the following set of facts:

1. Under the old-age exemption law for people over age 65, would a person who owns a mobile home which is permanently attached to the realty and who owns the realty be subject to the exemption?

We enclose a copy of the Act, and the same exempts up to the first \$5,000 of the fair market value of the dwelling place of persons who have been residents of the state for at least one year and have reached the age of 65 years on or before December 31 preceding the tax year, provided complete fee simple title of their dwelling place is held or owned. The exemption is restricted to real estate property taxes levied by a county, school or special assessment. The question, therefore, is whether the mobile home is so affixed to the land as to become a part thereof, and if in such case it is so affixed and is occupied as the owner's dwelling place, then it would constitute real property and qualify for the exemption.

In this connection it has been stated:

'It was a maxim of the common law that whatever is annexed to the soil becomes a part thereof. * * *. However, the general rule has been much relaxed in modern times in favor of trade, our court looking at the question of annexation and the question of agreement or intention of the parties, * * *. It is a mixed question of law and fact, and all the circumstances should be considered by the court.' [Paris Mountain Water Co. v. Woodside](#), 133 S. C. 383, 131 S. E. 37.

In the instant question there is but one party, and as stated in the question, the mobile home is permanently attached to the realty. Under such circumstances, the same would constitute realty and qualify for the exemption, provided other requirements of the statute are met.

2. If a person owns a mobile home and uses it as a residence for himself and his family and that is the only residence he maintains and the mobile home is situated on leased or rented property, would the owner of the mobile home be entitled to the old-age exemption?

The Act restricts the exemption to persons who 'hold complete fee simple title to the dwelling place'. Here there would be no such ownership and the mobile home would not qualify. A good probability also exists that the mobile home constitutes personal property rather than real property.

*2 3. If a mobile home is permanently attached to realty and the person owns the mobile home and the realty and additions have been made to the mobile home such as porches, storerooms, and additional bedrooms, would this mobile home be considered the same as a residence located on real estate and for tax purposes assessed as such?

The question here is whether the mobile home has lost its identity as personal property so as to become a part of the realty, and in all probability, the mobile home would have lost its identity as personal property and would constitute real property. (See answer to first question.)

Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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