
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #97-18

SUBJECT: Eligibility Requirements for the Homestead Exemption under S. C. Code Ann. Section 12-37-250 in light of S.C. Code Ann. Section 12-37-252

EFFECTIVE DATE: Applies to all periods open under the statute.

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCES: S.C. Code Ann. Section 12-37-250 (Supp. 1996)
S.C. Code Ann. Section 12-37-252 (Supp. 1996)
S.C. Code Ann. Section 12-43-220(c) (Supp. 1996)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1996)

SCOPE: A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

Are the eligibility requirements for the homestead exemption of S. C. Code Ann. Section 12-34-250 the same as the eligibility requirements for the 4% legal residence assessment ratio under S.C. Code Ann. Section 12-43-220(c)?

Conclusion:

The homestead exemption and the 4% legal residence assessment ratio are the same in that they each require that the taxpayer make application to the county and prove that the taxpayer owned and occupied the residence as a legal residence; was domiciled at that address for some period during the applicable tax year; and was an owner-occupant domiciliary at the end of the applicable tax year.

Additionally, a taxpayer who claims the homestead exemption must also, on or before December 31 of the year preceding the tax year in which the exemption is first claimed, have been a resident of the State of South Carolina for at least one year, and;

(1) have reached the age of sixty-five years, or

(2) have been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons, or

(3) be legally blind as defined in S. C. Code Ann. Section 43-25-20.

Background.

Questions have arisen concerning the interplay between S.C. Code Ann Section 12-43-220(c) [eligibility requirements for legal residence assessment ratio of 4%] and S.C. Code Ann. Section 12-37-250 [eligibility requirements for homestead exemption] in light of S.C. Code Ann. Section 12-37-252 [classification and assessment of property qualifying for exemption under Section 12-37-250].

In Revenue Ruling 97-4, the Department of Revenue determined that in order for a taxpayer to be eligible for the 4% legal residence assessment ratio, the taxpayer had to make application to the county assessor and show that the taxpayer owned and occupied the residence as a legal Residence; was domiciled at that address for some period during the applicable tax year; and was an owner-occupant domiciliary at the time of application and at the end of the applicable tax year.

S.C. Code Ann. Section 12-37-252 indicates that the homestead exemption and the 4% legal residence assessment ratio are closely intertwined. The question posed is how the homestead exemption and legal residence statutes can be reconciled in light of Section 12-37-252.

Statutes:

S.C. Code Ann. Section 12-37-252 provides:

(A) Notwithstanding any other provision of law, property that qualifies for the homestead exemption pursuant to the Section 12-37-250 is classified and taxed as residential on an assessment equal to four percent of the property's fair market value. Any agriculturally classified lands that are part of the homestead must be taxed on an assessment equal to four percent of the lands' value for agricultural purposes. The county auditor shall notify the county assessor of the property so qualifying and no further application is required for such classification and taxation.

(B) When a person qualifies for a refund pursuant to Section 12-60-2560 [claim for refund] and 12-43-220(c) [legal residence] for prior years' eligibility for the four percent owner-occupied residential assessment ratio, the person also may be certified for a homestead tax exemption pursuant to Section 12-37-250. This

refund does not extend beyond the immediate preceding tax year. The refund is an exception to the limitations imposed by Section 12-60-1750 [refund of property taxes].

S.C. Code Ann. Section 12-37-250, the Homestead Exemption Statute, provides in part:

The first twenty thousand dollars of the fair market value of the dwelling place [permanent home and legal residence of the applicant] of a person is exempt from county, municipal, school, and special assessment real estate property taxes when the person has been a resident of this State for at least one year and has reached the age of sixty-five years on or before December thirty-first, the person has been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons, or the person is legally blind as defined in Section 43-25-20, preceding the tax year in which the exemption is claimed.... The exemption includes the dwelling place when jointly owned ...by husband and wife, and either has reached sixty-five years of age, or is totally and permanently disabled, or legally blind under this section, before January first of the tax year in which the exemption is claimed, and either has been a resident of the State for one year. The exemption must not be granted for the tax year in which it is claimed unless the person or his agent makes written application for the exemption before July sixteenth of that tax year. If the person or his agent makes written application for the exemption after July fifteenth, the exemption must not be granted except for the succeeding tax year for a person qualifying under this section when the application is made. However, if application is made after July fifteenth of that tax year but before the first penalty date on property taxes for that tax year by a person qualifying under this section when the application is made, the taxes due for that tax year must be reduced to reflect the exemption provided in this section....

When any person who was entitled to a homestead tax exemption under this section dies or any person who was not sixty-five years of age or older, blind, or disabled on or before December thirty-first preceding the application period, but was at least sixty-five year of age, blind, or disabled at the time of his death and was otherwise entitled dies and the surviving spouse is at least fifty years of age, the dwelling place is exempt from real property taxes to the same extent and obtained in accordance with the same procedures as are provided for in this section....

Section 12-43-220(c), as last amended by Section 24 of Act 431 of 1996, reads:

(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, is taxed on an assessment equal to four percent of the fair market value of the property....For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant. A taxpayer may receive the four percent assessment ratio on only one residence for a tax year.

(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner-occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the

applicable tax year and remain in that status at the time of filing the application required by this item [and was an owner-occupant domiciliary at the end of the applicable tax year].

(ii) This item does not apply unless the owner of the property or the owner's agent applies for the four percent assessment ratio before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio....

(iii)....

(iv)...the burden of proof for eligibility for the four percent assessment ratio is on the owner-occupant and the applicant must provide proof the assessor requires....

Discussion

In order for a taxpayer to qualify for the Homestead Exemption, the taxpayer must meet certain eligibility requirements. In addition, the property must meet certain qualifications.

Eligibility of the Person for the Homestead Exemption

To be eligible for the Homestead Exemption, Section 12-37-250 provides that a taxpayer must, on or before December 31 of the year preceding the tax year in which the exemption is first claimed, have been a resident of the State of South Carolina for at least on year; AND

a.) have reached the age of sixty-five years; OR

b.) have been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons: OR

c.) be legally blind as defined in Section 43-25-20.¹

Eligibility of the Property for the Homestead Exemption

In most cases the taxable status of property in South Carolina is determined as of December 31 of the year immediately preceding the tax year. Atkinson Dredging Co. v. Thomas, 266 S.C. 361, 223 S.E.2d 592 (1976). See also S.C. Code Ann. Section 12-37-900. Subsequent changes to S.C. Code Ann. Section 12-43-220(c) dealing with legal residence have changed this rule in certain instances. See SC Revenue Ruling #97-4.

¹When any person who was entitled to a homestead tax exemption dies or any person who was not sixty-five years of age or older, blind, or disabled on or before December thirty-first preceding the tax year, but was at least sixty-five year of age, blind, or disabled at the time of his death and was otherwise entitled dies and the surviving spouse is at least fifty years of age and acquires fee simple title or in part in fee or a life estate or a part for life within nine months after the death of the spouse, the dwelling place is exempt from real property taxes to the same extent and obtained in accordance with the same procedures so long as the survivor remains unmarried and the dwelling place is utilized as the surviving spouse's permanent home and legal residence.

S.C. Code Ann. Section 12-37-250 does not expressly indicate that in order to qualify for the homestead exemption the property of the taxpayer must be the taxpayer's dwelling place on December 31 preceding the tax year, even though all other qualifications – the residency requirement, the age requirement and the disability requirement – are expressly tied to that date. See Op. Atty. Gen. of February 17, 1976; 1976 WL 30671.

As noted in Revenue Ruling 97-4, for a taxpayer to be eligible for the 4% legal residence assessment ratio provided for in S.C. Code Ann. Section 12-43-220(c), the taxpayer has to make application to the county assessor and show that the taxpayer owned and occupied the residence as a legal residence; was domiciled at that address for some period during the applicable tax year; and was an owner – occupant domiciliary at the time of application and at the end of the applicable tax year.

The statutes dealing with the homestead exemption and legal residence are inextricably intertwined. Property that qualifies for the homestead exemption under Section 12-37-250 is classified and taxed as residential on an assessment equal to four percent of the property's fair market value. Section 12-37-252(A). When a person qualifies for a refund because of a prior year's eligibility for the four percent owner-occupied residential assessment ratio, the person also may be certified for a homestead tax exemption. Section 12-37-252(B). Because of their close relationship, these statutes may be said to be in *pari material* to each other.

Under the rule of statutory construction, statutes in close relationship, or in *pari material*, are not to be considered as isolated fragments of law, but as a whole, or parts of a great homogeneous system. Such statutes are considered as if they constituted but one act, so that sections of one act may be considered as though they were parts of the other act, as far as that can be reasonably be done. 73 Am.Jur.2d, *Statutes*, Section 188.

Sections 12-37-250 and 12-43-220(c) are part of a statutory scheme designed to provide a benefit to taxpayers who own and occupy their residence as a domicile. Statutes which are part of the same general scheme or plan, or are aimed at the accomplishment of the same results are also considered as in *pari material*. Additionally, it has been held that “[s]tatutes or sections which expressly refer to each other are in *pari material*.” Keith v. Lockart, 171 N.C. 451, 88 S.E. 640 (1916)

Statutes on the same subject are construed together, even if they were enacted or adopted at different times. Uniform State and Rule Construction Act, Section 18(f)(3). The legislature is presumed to have adopted a new statute in the light of and with reference to, earlier acts on the same subject. St. Louis, I. M. & S. R. Co. v. United States, 251 U.S. 198, 64 L.Ed 225, 40 S. Ct. 120 (1920).

Accordingly, (1) because property that qualifies for the homestead exemption is classified and taxed as residential on an assessment equal to four percent of the property's fair market value – see S.C. Code Ann. Section 12-37-252(A); and (2) because a person who qualifies for a refund for prior years' eligibility for the four percent owner-occupied residential assessment ratio may also be certified for a homestead tax exemption – see S. C. Code Ann. Section 12-37-252(B), that the ownership and occupancy requirements for the homestead exemption and for the 4% legal residence assessment ratio are the same.

Thus, to be eligible for the homestead exemption, the property for which the exemption is sought must, during each tax year for which the homestead exemption is sought:

- a.) be owned and occupied as the permanent home and legal residence of the applicant;
- b.) be owned by the applicant, or jointly by the applicant and his spouse, in complete fee simple, partially in fee, by life estate, or in part for life,² and
- c.) be occupied as the applicant's permanent home and legal residence as of December 31 of each tax year for which the exemption is sought.

Additionally, a taxpayer who claims the homestead exemption must also, on or before December 31 of the year preceding the tax year in which the exemption is first claimed, have been a resident of the State of South Carolina for at least one year, and:

- (1) have reached the age of sixty-five years, or
- (2) have been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons, or
- (3) be legally blind as defined in S. C. Code Ann. Section 43-25-20.

If a taxpayer qualifies a property for the homestead exemption, and subsequently sells the residence or no longer occupies the residence as a domicile, the property loses its eligibility for the homestead exemption for that tax year. The 6% assessment ratio will then apply to the property for the entire tax year.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/ Burnet R. Maybank III
Burnet R. Maybank III, Director

Columbia, South Carolina

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² When the dwelling is owned in part in fee or in part for life the amount of the exemption must be determined by multiplying the percentage of the fee or life estate owned by the person by the full exemption. For purposes of this calculation, a percentage of ownership less than five percent is considered to be five percent. The exemption may not exceed the value of the interest owned by the person.