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

SC REVENUE RULING # 98-1

SUBJECT: Definition of “Immediate Family Member”
(Property Tax)

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 12-43-220(c)
S. C. Code Ann. Section 12-43-232

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1996)
SC Revenue Procedure #97-8

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 It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.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:

What is the definition of “immediate family member” for property tax purposes?

Conclusion:

Immediate family member means a person related to another within the third degree of consanguinity or affinity. A relative within the third degree of consanguinity or affinity of a person consists of that person’s parents, children (including adopted children¹), grandparents, grandchildren, siblings, great grandparents, great grandchildren, aunts, uncles, nieces, and nephews, either by blood or by marriage.

¹S. C. Code Ann. Section 20-7-1770 provides in pertinent part:

(A) After the final decree of adoption is entered, the relationship of parent and child and all the rights, duties, and other legal consequences of the natural relationship of parent and child exist between the adoptee, the adoptive parent, and the kindred of the adoptive parent.

Background:

There is no general definition of “immediate family member” for property tax purposes. Several different definitions of “immediate family member” appear in the S. C. Code, but each definition varies substantially with the other depending on the purpose of the section to which the definition refers. See, generally, S. C. Code Ann. Sections 7-25-200(A), 8-13-710(C), 8-13-100(18), 12-36-1710(E), 12-43-232, and 44-113-20(9).

Discussion:

S. C. Code Ann. Section 12-43-220(c)(1) provides:

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, and additional dwellings located on the same property and occupied by **immediate family members** of the owner of the interest are taxed on an assessment equal to four percent of the fair market value of the property.
(Emphasis added.)

This section does not define “immediate family member.”

Section 12-43-232, which deals with agricultural use property, is the only provision in S.C. law which deals with property tax matters and which discusses “immediate family member.” It provides in part:

The property must continue to be classified as agricultural real property until the property is applied to some other use or until the property is transferred to other than an immediate family member, whichever occurs first. For purposes of this subitem, “**immediate family**” is a person related to the current owner within the third degree of consanguinity or affinity (Emphasis added.)

In construing a statute, statutes on the same subject are construed together, even if they are 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 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).

Because Section 12-43-232 involves property tax matters and because there is no other definition of “immediate family member” for property tax purposes, we conclude the South Carolina legislature intended the Section 12-43-232 definition to be the generic definition of “immediate family member” for property tax purposes.

Section 12-43-232 provides that “immediate family” is a person related to the current owner within the third degree of consanguinity or affinity. Affinity refers to a relationship by marriage and consanguinity refers to a blood relationship. See *The American Heritage Dictionary*, 3d edition.

Two formulas exist for determining the degree of kinship: the civil-law method and the common-law or canon law method.² See 23 AmJur 2d, Section 55, *Degrees of Kinship*. South Carolina has adopted the civil-law method.

“. . . In determining lineal consanguinity, each step up or down from the decedent counts as one degree. Thus an intestate or his son or father are related in the first degree, and intestate and his grandson or grandfather are related in the second degree. In determining collateral consanguinity, the rule is to count up from the intestate to the common ancestor, and then down to the person whose kindred with the intestate is sought to be ascertained. In this computation each step, both in the ascending and the descending line, counts as one degree. Thus an intestate and his brother are related in the second degree, and an intestate and his cousin in the fourth degree.” [T]his . . . is the rule in South Carolina.

Simonton et al. v. Edmunds et al., 25 S.E.2d 284, 285 (S.C. 1943), quoting from Ex Parte Kreps, 39 S.E. 181 (1901).

“Computing by the rule of civil law, parents and children of a person are related to him in the first degree; and grandparents, grandchildren, brothers and sisters of the person are related to him in the second degree. Uncles, aunts, nephews, nieces, and great-grandparents of a person are related to him in the third degree.” Letter of Atty. Gen. to Dr. Jack S. Mullins dated Aug. 7, 1978, 1978 WL 35019 (S.C.A.G.)

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank III, Director

Columbia, South Carolina
January 11 _____, 1998

²“The degrees of consanguinity are reckoned as one degree for each person in the line of descent, exclusive of him from whom the computation begins. This is so at the civil, canon, and common law. At the civil law, the degree of consanguinity between collaterals is reckoned by proceedings from one up to the common ancestor and then down to the other. At the common and the canon law, the degrees between collaterals are found by taking the number from the common ancestor to either, or the more remote of them.” See *Webster’s New International Dictionary*, 2d. edition, unabridged.