5. INDIVIDUAL PROPERTY TAX

1. TAXATION OF REAL AND PERSONAL PROPERTY

a. General Information

South Carolina Code §12-37-210 provides that all real and personal property in South Carolina, and personal property of residents which may be kept or used temporarily out of state, with the intention of being brought into the state, or which has been sent outside of the state for sale and not yet sold, is subject to property taxes.

South Carolina Code §12-37-10 defines the terms "real property" and "personal property." Real property means not only land, but also all structures and other things therein contained or annexed or attached to the land which pass by conveyance of the land. It includes fixed wharves and docks on rivers, lakes, or tidewaters. Personal property is all things, other than real estate, which have any pecuniary value.

South Carolina Regulation 117-1700.1 provides a list of miscellaneous items as real property or personal property for officials to use when assessing property. The regulation provides, in part, that aircraft, automobiles, boats, inboard and outboard boat motors, and recreational vehicles are personal property and docks, greenhouses, mobile homes, and sprinkler systems are real property.

b. Exemptions

South Carolina Code §12-37-220 contains numerous property tax exemptions for individuals. The following is a partial list of property exempt from South Carolina property taxes:

- Intangible personal property
- Household goods and furniture used in the owner's home, including built-in equipment such as ranges, dishwashers, and disposals, but this exemption does not apply to household goods used in hotels, rooming houses, apartments, or other places of business
- Wearing apparel
- Watercraft and motors assessed at less than $50

- Watercraft trailers

No application for these exemptions is necessary. See South Carolina Code §12-4-720(A)(3). Other exemptions are determined by the Department upon application.

c. Administration of Property Taxes

Property taxes are generally assessed and collected by local governments. A county levies property taxes on property located in the county. Municipalities, school districts and special purpose districts may also levy property taxes on property located within their boundaries. The Department assists in the administration of property taxes by overseeing all property tax assessments to ensure equitable and uniform assessment throughout South Carolina.

The amount of property tax due is based upon three elements: (1) the property value, (2) the assessment ratio applicable to the property, and (3) the millage rate imposed by the taxing jurisdiction. Each of these elements is briefly discussed below.

1. **Valuation**. Real property, other than agricultural use real property or property subject to a fee in lieu of taxes, is appraised at fair market value for property tax purposes. Real property is reappraised countywide on a 5 year cycle and is usually subject to reassessment (i.e., assessment based on the reappraised value) in the next year. An increase in fair market value of any parcel of real property as a result of a countywide reassessment program is limited to 15% within a 5 year period. Re-appraisals are triggered by 2 other events: (1) completion of most types of "improvements" or "additions," including new construction and remodeling (see South Carolina Code §12-37-3130(1) for a complete definition) and (2) an "assessable transfer of interest," which encompasses a broad range of changes as to ownership or use or the passage of time as set forth in South Carolina Code §12-37-3150.

   After completion, the fair market value of improvements and additions will be added to the fair market value of a parcel. After an assessable transfer of interest occurs, the fair market value of the parcel will be adjusted by appraisal. The 15% cap does not apply to the property in the year the assessable transfer is first subject to property tax or to the fair market value of the improvements or additions in the year they are first subject to property tax. See South Carolina Code §§12-43-217 and 12-37-3120 through 12-37-3170. However, after an assessable transfer of interest, real property subject to a 6% assessment ratio may be subject to a partial exemption of the appraised value if certain eligibility requirements are met. South Carolina Code §12-37-3135. See, Chapter 4, Section 19 for a further discussion of the partial exemption.

Motor vehicles, boats, and airplanes are valued in accordance with nationally recognized publications of value (except that the value may not exceed 95% of the prior year's value). Discounts are allowed for motor vehicles with high mileage.

2. **Assessment Ratio**. The assessment ratios are established in the State Constitution to ensure stability and range from 4% to 10.5%. A person's primary residence is assessed at 4%; a second residence or other real property used or held for an individual's personal use, or vacant land is assessed at 6%. Personal motor vehicles are assessed at 6%; generally, motor homes and boats that are not a primary or secondary residence are assessed at 10.5%. The value is multiplied by the applicable ratio to produce the "assessed value" of the property.

3. **Millage**. Annually, every taxing entity, including each county and municipality, determines the number of mills required so that when that number is applied to the total assessed value of property subject to tax within its jurisdiction it will raise the money necessary to operate the following tax year. A mill is a unit of monetary value equal to one-thousandth of a dollar or .001.

The property tax imposed on, and some of the exemptions available to, individuals who own, rent, or lease homes, cars, boats, planes, and other types of property in South Carolina are described below in more detail.

2. RESIDENTIAL PROPERTY

A person's primary residence and not more than 5 contiguous acres, when owned totally, or in part, in fee or by life estate and occupied by the owner, is taxed on an assessment equal to 4% of the fair market value. A person's second home or vacation home is taxed at an assessment ratio equal to 6%. A purchaser who purchases residential property with the intent that it will become his primary residence, but the property is subject to vacation rentals as provided in South Carolina Code Title 27, Chapter 50, Article 2, for no more than 90 days, may apply for the 4% assessment ratio once the purchaser occupies the property. If the owner actually occupies the property within 90 days of acquiring ownership and otherwise qualifies, the 4% ratio will apply retroactively to the date of ownership. Otherwise, a residence rented for more than 72 days during the tax years is disqualified. South Carolina Code §12-43-220(c)(2)(iv) and (6) and; see also, *Ford v. Beaufort County Assessor*, 398 S.C. 508, 730 S.E. 2d 335 (Ct. App. 2012).

A motor home or trailer used for camping and recreational travel that is pulled by a motor vehicle may qualify as a primary or secondary residence for property tax purposes if the interest portion of indebtedness is deductible under the Internal Revenue Code as an interest expense on a qualified primary or secondary residence. A boat or watercraft that meets certain

statutory requirements (including having a toilet with exterior evacuation, sleeping quarters, and a cooking area with an onboard power source) may qualify as a primary or secondary residence. A motor home, boat, or trailer that is a primary residence qualifies for the 4% assessment ratio, and one that is a secondary residence qualifies for the 6% assessment ratio. Property that qualifies for this treatment is valued in the same manner as motor vehicles are valued. South Carolina Code §12-37-224.

Generally, the residential classification is not available unless the owner of the property applies to the county assessor before the first penalty date for taxes due (January 16). The application period may be extended by the local taxing authority for reasonable cause. No further applications are necessary from the current owner while the property for which the initial application was made continues to meet the eligibility requirements. See South Carolina Code §12-43-220(c).

A residence that is qualified as a legal residence for any part of a year is entitled to the 4% assessment ratio for the entire year.

As part of the application, the owner-occupant must certify:

1. the residence which is the subject of the application is the owner's legal residence and where he is domiciled at the time of the application;

2. neither he nor any other member of his household claims to be a legal resident of a jurisdiction other than South Carolina for any purpose; and

3. neither he nor any member of his household claims the 4% assessment ratio on another residence.

For this purpose, a member of his household consists of the owner occupant's spouse, unless legally separated, and children under the age of 18 eligible to be claimed as a dependent on the owner-occupant's federal income tax return.

In the case of certain shared interests in real property other than between spouses, application of the 4% assessment ratio will be limited to the percentage of value equal to the percentage of the occupant's ownership interest. South Carolina Code §12-43-220(C)(8). These rules may not apply in the case of certain family limited partnerships, trusts and limited liability companies.

Real property owned by a single member LLC may qualify for the 4% assessment ratio under the following circumstances. The single member LLC must not be taxed as a corporation. Further, the real property owned by such single member LLC must serve as the residence of its single member and otherwise satisfy the requirements for the 4% assessment ratio under South Carolina Code §12-43-220(c). See, *CFRE, LLC v. Greenville County Assessor*, 395 S.C. 67, 716 S.E.2d 877 (2011).

South Carolina Code §§12-37-220(B)(47) and 12-37-250 provide for 2 exemptions that reduce the property tax levied on an individual's primary residence. These exemptions are not available on a person's second home or vacation home. These exemptions are:

- An exemption providing, to the extent not exempt under the homestead exemption below, 100% of the fair market value of owner-occupied residential property is exempt from all property taxes imposed for school operating purposes, but excluding millage imposed for the repayment of debt.
- A homestead exemption applicable to the first $50,000 of the fair market value of an elderly, disabled, or blind individual's primary residence.

Each of these exemptions is discussed below in more detail.

a. Exemption for School Operating Costs

To the extent not exempt under the homestead exemption discussed below for the elderly, blind or disabled, 100% of the fair market value of owner-occupied residential property is exempt from all property taxes imposed for school operating purposes. The exemption does not apply to millage imposed for the repayment of general obligation debt or to county or municipal taxes. See South Carolina Code §12-37-220(B)(47).

To come within the exemption for school operating costs, a residence must be eligible for the 4% assessment ratio for legal residences as provided by South Carolina Code §12-43-220(c). A residence that has qualified as a legal residence for any part of a year is entitled to the 4% assessment ratio and to this exemption for the entire year. Additionally, if only a portion of the residential property is eligible for the 4% assessment ratio, only that portion will be subject to the exemption for school operating costs. No application for the exemption for school operating costs is necessary, but the 4% assessment ratio for legal residence must be applied for.

b. Homestead Exemption for Elderly, Blind, or Disabled

Article X, §3, of the South Carolina Constitution and South Carolina Code §12-37-250 provide a homestead exemption from property taxes of $50,000 of the fair market value of the dwelling place of certain individuals. The term "dwelling place" means the permanent home and legal residence of the applicant. The exemption is from county, municipal, school, and special assessment real estate property taxes. It exempts the dwelling place when jointly owned by husband and wife, if either spouse meets the criteria for the exemption.

To be eligible for the exemption a person must meet the following criteria:

- Be (a) age 65, (b) totally and permanently disabled, or (c) legally blind and such must occur on or before December 31, preceding the tax year for which the exemption is claimed.
- Be a legal resident of South Carolina for at least one year on or before December 31; preceding the tax year for which the exemption is claimed.
- Hold fee simple title or a life estate in the legal residence by himself or jointly with his spouse on December 31 of the tax year. A partial fee or life estate will result in a partial exemption.

The application for this exemption must be made to the auditor of the county and to the governing body of the municipality in which the home is located on forms provided by the county and municipality. South Carolina Code §12-37-250. The taxpayer must provide proof of eligibility when applying for the homestead exemption. If applying because of age, the taxpayer should provide a birth certificate, Medicaid card, or family Bible with entries of birth or baptismal records to prove age. If applying because of disability or blindness, the taxpayer should provide a certification from the state or federal agency with authority to make that declaration.

Failure to apply constitutes a waiver of the exemption for that year. A person who applies for the homestead exemption and could have qualified in the prior tax year, in addition to the current year, may be allowed the homestead exemption for the immediate preceding tax year.

The personal representative of a deceased taxpayer's estate may apply for the homestead exemption under South Carolina Code §12-37-250 and the 4% assessment ratio for legal residences provided by South Carolina Code §12-43-220(c). See South Carolina Code §12-37-252(C).

South Carolina Code §12-37-255 provides that when the homestead exemption is granted, it continues to be effective for successive years in which the ownership of the homestead or the other qualifications for the exemption remain unchanged. Notification of any change affecting eligibility must be given immediately to the county auditor. South Carolina Code §12-37-266 provides that the homestead exemption includes situations where a trustee holds legal title to a dwelling that is the legal residence of a beneficiary otherwise meeting the qualifications. The trustee may apply for the exemption in person or by mail to the county auditor. No further application is necessary while the property continues to meet the eligibility requirements. The trustee must notify the county auditor of any change in classification within 6 months.

c. Local Option Sales Tax Credit

Pursuant to South Carolina Code §4-10-20, counties have the option of increasing the sales, use, and accommodations tax rate by 1% to provide additional revenue for local governments and a credit against a taxpayer's real and personal property taxes owed (typically referred to as the "local option sales tax"). The increase must be approved by voter referendum. Persons who pay property tax in a local option county may be allowed a credit against property taxes based upon the amount of the local option sales tax collected in the county. In the above example, if a taxpayer lived in a local option county, the property tax due would be reduced by a local option property tax credit.

See Sales and Use Tax General Provisions, Chapter 7, Section 2 and South Carolina Information Letter #15-3 effective May 1, 2015 for a list of counties that impose the local option sales tax.

3. MOTOR VEHICLES, AIRPLANES, AND BOATS

Personal motor vehicles, including pick-up trucks and motorcycles, are assessed at 6%. Generally, boats and airplanes are assessed at 10.5%. By ordinance, the governing body of a county may reduce the assessment ratio of general aviation aircraft subject to property tax in the county to not less than 4% of the fair market value. The ordinance must be applied uniformly to all general aviation aircraft subject to property tax in the county. South Carolina Code §12-43-360.

Watercraft and motors that have an assessed value of not more than $50 are exempt from property taxes under South Carolina Code §12-37-220(B)(38). Watercraft trailers are exempt from property taxes under South Carolina Code §12-37-220(B)(40). The governing body of a county, by ordinance, may exempt from property tax 42.75% of the fair market value of a watercraft and it's motor. South Carolina Code §12-37-220(B)(38).

Boats and boat motors that are not currently taxed in South Carolina and that are not used exclusively in interstate commerce become taxable if they are present in South Carolina for 60 consecutive days or 90 days in the aggregate in a property tax year. In lieu of the above rule, the local governing body may, by ordinance, replace the 60/90 day provision with one of the following:

1. The boat or boat motor will be considered taxable if the boat or motor is in South Carolina for an aggregate of 180 days in a property tax year. The number of consecutive days that the boat or motor is in South Carolina is disregarded if the county chooses this option; or,

2. The boat or boat motor will be considered taxable if the boat or boat motor is present in South Carolina for an aggregate of 90 days in the property tax year. The number of consecutive days that the boat or motor is in South Carolina is disregarded if the county chooses this option.

For boats used in interstate commerce and that have a tax situs in South Carolina and in at least one other state, the value is computed by multiplying the fair market value by a fraction (*i.e.,* the number of days the boat was present in South Carolina divided by 365.) The boat must be physically present for an aggregate of 30 days in South Carolina to be subject to property taxes. South Carolina Code §12-37-714.

Personal property tax is collected annually. The following example shows a simplified calculation of the property tax due on a person's personal motor vehicle.

Market Value	$20,000
x Assessment Ratio	6%
Total Assessment	$1,200
x County Millage Rate	0.289
Tax	$346.80

New residents must register their vehicles and secure license plates within 45 days of establishing residence. Property taxes must be paid prior to car registration and license plates being issued.

4. AGRICULTURAL USE REAL PROPERTY

"Agricultural real property" is defined in South Carolina Code §12-43-230(a) as any tract of real property which is used to raise, harvest, or store crops, feed, breed, or manage livestock, or to produce plants, trees, fowl, or animals useful to man, including the preparation of the products

raised thereon for man's use and disposed of by marketing or other means. Special property tax rules applicable to agricultural use real property are discussed below.

Assessment Ratio. Qualifying agricultural use real property is taxed on an assessment equal to:

- 4% of its value for agricultural use purposes for owners or lessees who are individuals or partnerships, and for corporations which do not have one or more of the following: (1) more than 10 shareholders, (2) a shareholder (other than an estate) who is not an individual, (3) a nonresident alien as a shareholder, and (4) more than one class of stock.
- 6% of its value for agricultural use purposes for corporate owners or lessees, except for certain closely held corporations specified above which are allowed the 4% ratio. South Carolina Code §12-43-220(d)(1) and South Carolina Regulation 117-1780.2.

Valuation. Unlike other real property, agricultural use real property is not appraised to determine fair market value. A special method for determining the value of real property actually used for agricultural purposes is provided in South Carolina Code §12-43-220(d). **NOTE**: Current use (not intended or future use) is determinative. See South Carolina Commission Decision #92-77. The value for agricultural use purposes is determined in South Carolina Regulation 117-1840.2 for the 1991 tax year and years thereafter.

Three recent Administrative Law Court cases, *Montogomery v. Spartanburg County Assessor*, 13-ALJ-17-0104-CC, *Dotsy, LLC v. Greenwood County Assessor*, 13-ALJ-17-0061-CC, and *Smith v. Clarendon County Assessor*, 11-ALJ-17-191-CC (2011) found that the value of buildings is included in the value of the soil capability contained in South Carolina Regulation 117-1840.2, which effectively exempts the structure from being valued separately from the underlying realty. The *Montgomery* case is currently pending at the South Carolina Court of Appeals.

The Department of Revenue has filed an amicus curiae brief in the *Montgomery* matter disagreeing with the conclusion of the Administrative Law Court and asserting the long standing administrative position of the Department that the special valuation provided in the statute and regulations, which bases valuation on soil capability applies only to the land and not to any buildings located on the land and that such buildings and structures are valued using the standard valuation principles set forth in South Carolina Code §12-37-930.

Application. South Carolina Code §12-43-220(d)(3) provides that each new owner must make application for the 4% or 6% assessment ratio and the special valuation method to the county assessor on or before the first date taxes are due without penalty for the first tax year in which the special assessment is claimed.

Special Rule for Change of Use. When the use of the property is changed to a use other than agricultural, the property is subject to rollback taxes equal to the difference between the taxes based on agricultural use and the taxes that would have been payable if the property had been taxed as other real property (except the value of standing timber is excluded), for the year of change in use and the preceding 5 tax years. South Carolina Code §12-43-220(d) and South Carolina Regulation 117-1780.3. The owner must notify the assessor of change in use within 6 months.

5. HOMEOWNERS ASSOCIATIONS

South Carolina Code §12-43-227 provides a special method for valuing homeowners association property pursuant to a capitalized earnings formula. Homeowners associations that make timely application may have their property valued at the greater of $500 an acre, or an amount determined by dividing the association's nonqualified gross receipts by 20%. Generally, this valuation method will produce favorable property tax valuations for a homeowners association since only nonmember revenue is capitalized.

South Carolina Code §12-43-230 defines homeowners association property as real and personal property owned by the association that meets the following tests: (1) the property is held for the use, benefit, and enjoyment of members of the homeowners association, (2) the members have an irrevocable right to use and enjoy the property on an equal basis, and (3) each irrevocable right to use such property is appurtenant to taxable property owned by a member of the homeowners association.