

5. INDIVIDUAL PROPERTY TAX

1. TAXATION OF REAL AND PERSONAL PROPERTY

a. General Information

S.C. Code Ann. § 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.

S.C. Code Ann. § 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.

S.C. Code Ann. Regs. 117-1700.1 provides a list of miscellaneous items classified 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

S.C. Code Ann. § 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, including household goods in second homes which may be periodically rented during the year.
- ◆ Wearing apparel
- ◆ Watercraft and motors assessed at less than \$50
- ◆ Watercraft trailers

No application for these exemptions is necessary. See S.C. Code Ann. § 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. Reappraisals are triggered by 2 other events: (1) completion of most types of “improvements” or “additions,” including new construction and remodeling (see S.C. Code Ann. § 12-37-3130(1) for a complete definition), or (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 S.C. Code Ann. § 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 S.C. Code Ann. §§ 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. S.C. Code Ann. § 12-37-3135. See, Chapter 4, Section 20, 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). Motor vehicle valuation guides must include appropriate adjustments to reflect high mileage for all motor vehicles in such guides or manuals which would be applicable as part of an appeal of the value of the vehicle. S.C. Code Ann. §§ 12-37-2680 and 12-60-2910.

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% if they meet the qualifications of the statute; a second residence or other real property used or held for an individual’s personal use, commercial property, and 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, municipality and school district, 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, upon approval of the taxpayer’s application by the county assessor. 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 S.C. 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. S.C. Code Ann. § 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 (SC Ct. App. 2012). However, also see *Mead v. Beaufort County Assessor*, 419 S.C. 125 (SC Ct. App. 2016) which held that a taxpayer who qualifies for the homestead exemption under S.C. Code Ann. § 12-37-250 for taxpayers 65 or over, blind or permanently and totally disabled, may qualify for the 4% assessment ratio pursuant to S.C. Code Ann. § 12-37-252, despite his property being rented in excess of 72 days. The property, will not, however, qualify for the exemption from school operating millage in S.C. Code Ann. § 12-37-220(D)(47) since that statute specifically references S.C. Code Ann. § 12-43-220(c).

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. S.C. Code Ann. § 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). This date may be extended by the local taxing authority if the taxpayer can show reasonable cause for not filing timely. 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 S.C. Code Ann. § 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. An owner who is moved to a nursing home or community residential care facility (as defined in S.C. Code Ann. § 44-7-130) may continue the 4% assessment ratio and any applicable exemptions if the owner (1) otherwise continues to qualify for the 4% assessment ratio, (2) has the intention of returning to the property, and (3) doesn't rent the property in excess of 72 days.

There are special provisions for a member of the armed forces of the United States who is on active duty with orders for a permanent duty station in South Carolina to qualify for legal residence in South Carolina, even though the service member may be a resident of and domiciled in another state. These provisions provided for the service member to qualify for legal residence and to retain that legal residence status even after transfer out of South Carolina, in certain circumstances. See S.C. Code Ann. § 12-43-220(C)(2)(v) and following for the specific provisions and requirements applicable to active duty service members.

To receive the 4% assessment ratio, 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 the owner is domiciled at the time of the application;
2. neither the owner nor any member of the household claims to be a legal resident of a jurisdiction other than South Carolina for any purpose; and
3. neither the owner nor any member of the household claims the 4% assessment ratio on another residence.

For this purpose, a member of the 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. Special rules are provided for spouses who are legally separated. See S.C. Code Ann. § 12-43-220(c)(2)(iii).

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. S.C. Code Ann. § 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 S.C. Code Ann. § 12-43-220(c). See, *CFRE, LLC v. Greenville County Assessor*, 395 S.C. 67, 716 S.E.2d 877 (2011).

S.C. Code Ann. §§ 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 the dwelling place of a resident of this state that is 65 or older, disabled, or blind. A taxpayer eligible for the homestead exemption also qualifies for a 4% assessment ratio on his or her dwelling place – *i.e.*, permanent home and legal residence – regardless of whether that taxpayer qualifies for the 4% ratio under S.C. Code Ann. § 12-43-220(c). See *Mead v. Beaufort County Assessor*, 419 S.C. 125 (SC Ct. App. 2016).

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 those 65 and older, 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 S.C. Code Ann. § 12-37-220(B)(47).

To come within the exemption for school operating costs under S.C. Code Ann. § 12-37-220(B)(47), a residence must be qualified as a legal residence for any part of the year under S.C. Code Ann. § 12-43-220(c). See S.C. Code Ann. § 12-43-220(c)(2)(i). A residence that has qualified as a legal residence for any part of a year, and is not otherwise disqualified, 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 Age 65 and Older, Blind, or Disabled

Article X, § 3, of the South Carolina Constitution and S.C. Code Ann. § 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. The homestead exemption does not exempt the dwelling place from any fees charged by the taxing entity, such as a solid waste fee or a road user fee. 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 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 if applicable, to the governing body of the municipality in which the home is located on forms provided by the county and municipality. S.C. Code Ann. § 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, South Carolina driver’s license, or other identification card 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 for disability, and a licensed ophthalmologist in the case of application due to blindness.

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, within certain limits, for the homestead exemption under S.C. Code Ann. § 12-37-250 and the 4% assessment ratio for legal residences provided by S.C. Code Ann. § 12-43-220(c). See S.C. Code Ann. § 12-37-252(C).

S.C. Code Ann. § 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. S.C. Code Ann. § 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. A copy of the trust agreement must be provided to certify this exemption. 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 S.C. Code Ann. § 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.

See Sales and Use Tax General Provisions, Chapter 7, Section 2, and applicable SC Information Letter 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%, although certain "heavy" pickups may be assessed at 10.5%. 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. S.C. Code Ann. § 12-43-360.

Watercraft and motors that have an assessed value of not more than \$50 are exempt from property taxes under S.C. Code Ann. § 12-37-220(B)(38). Watercraft trailers are exempt from property taxes under S.C. Code Ann. § 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 its motor. S.C. Code Ann. § 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. S.C. Code Ann. § 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.

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.

Motor vehicles, boats and boat motors are taxed in advance. The county property taxes must be paid prior to registering the vehicle with the South Carolina Department of Motor Vehicles or the boat or boat motor with the South Carolina Department of Natural Resources. Likewise, the county property taxes must be paid prior to renewing the tag or sticker for the motor vehicle, boat or boat motor.

4. AGRICULTURAL USE REAL PROPERTY

"Agricultural real property" is defined in S.C. Code Ann. § 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. S.C. Code Ann. § 12-43-220(d)(1) and S.C. Code Ann. Regs. 117-1780.2.

Valuation. Unlike other real property, land qualifying as agricultural use real property is not taxed based on its fair market value. A special method for determining the value of land actually used for agricultural purposes is provided in S.C. Code Ann. § 12-43-220(d), and is based on the use value of the soil. The fair market value of the property is determined, however, in case the use of the property changes and the property becomes subject to rollback taxes. See below under “Special Rule of Change of Use.”

NOTE: Current use (not intended or future use) is determinative. See S.C. Commission Decision #92-77. The value for agricultural use purposes is determined in S.C. Code Ann. Regs. 117-1840.2 for the 1991 tax year and years thereafter.

In *Montgomery v. Spartanburg County Assessor*, 419 S.C. 77, 795 S.E.2d 866 (SC Ct. App. 2017), the South Carolina Court of Appeals held that valuation of the land using the soil capability method does not apply to structures on the property and the structure must be valued using the valuation method applicable to structures located on all real property. S.C. Code Ann. § 12-37-220(B)(14) has since been amended to provide that farm buildings and agricultural structures owned by a producer and used to house livestock, poultry, crops or farm equipment or supplies are also exempt from property taxes.

Application. S.C. Code Ann. § 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 3 tax years. Change in use of the property to a non-agricultural purpose is evidenced by actions taken by the owner of the real property which is inconsistent with agricultural use. S.C. Code Ann. § 12-43-220(d) and S.C. Code Ann. Regs. 117-1780.3. The owner must notify the assessor of change in use within 6 months. Property subject to a negotiated fee-in-lieu of taxes agreement, or property exempt under S.C. Code Ann. § 12-37-220(A)(1) (generally government-owned property) are not subject to agricultural rollback taxes. See S.C. Code Ann. § 12-43-220(d)(6).

5. HOMEOWNERS ASSOCIATIONS

S.C. Code Ann. § 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.

S.C. Code Ann. § 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.