

1979 WL 43488 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 27, 1979

***1 SUBJECT: Property Tax—Homestead Exemption—Payment of Real Estate Taxes as Condition Precedent**

Real estate taxes must be paid for the tax year for which the homestead exemption is claimed as a condition precedent to the granting of the exemption.

Mr. Ernest W. Cooler
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QUESTION:

As a condition precedent to the homestead exemption provided by Section 12-37-250, is it necessary that all real estate taxes be paid?

APPLICABLE LAW:

[Article X, Section 3 of the Constitution](#) and [§ 12-37-250 of the 1976 Code](#) of Laws.

DISCUSSION:

The Constitution in [Article X, Section 3](#), exempts from taxation:

‘(i) a homestead exemption for persons sixty-five years of age and older, for persons permanently and totally disabled and for blind persons in the amount of ten thousand dollars of the fair market value of the homestead under conditions prescribed by the General Assembly by general law; provided, that the amount may be increased by the General Assembly by general law; passed by a majority vote of both houses;’

[Section 12-37-250](#) was last amended by Act 444 of 1978 and provides in part that:

‘The exemption shall not, however, be granted unless such persons or their agents make written application therefor on or before May first of the tax year in which the exemption is claimed and shall also pay all real property taxes due by such persons before the date prescribed by statute for the imposition thereon of a late penalty or interest charge. * * *’

It is understood that legislation is pending for the governor's signature that would amend the above to provide for the payment of such taxes ‘on or before March 15’. Whether such becomes law does not affect the question here presented and by the language above quoted it is necessary that the taxes on all real estate be paid by the applicant as a condition precedent for the exemption.

The language of the statute cannot, however, be literally applied. If such were done any person who failed to timely pay taxes on all real estate would thereafter be forever barred from receiving the benefit of the exemption. Additionally, delinquent taxes can never be paid for a preceding year before the date prescribed for a late penalty.

Controlling in the interpretation of a statute is legislative intent:

'In determining legislative intent, court will, if necessary reject, the literal import of the words used in a statute.' [Arkwright Mills v. Murph](#), 219 S.C. 438, 65 S.E.2d 665. For other cases see cases collected in 17 S. C. D., Statutes, Key 174, et seq.

The real estate taxes that must be paid by the applicant for the exemption are thus those due for the tax year for which the exemption is claimed.

CONCLUSION:

Real estate taxes must be paid for the tax year for which the homestead exemption is claimed as a condition precedent to the granting of the exemption.

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