

1979 S.C. Op. Atty. Gen. 148 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-105, 1979 WL 29110

Office of the Attorney General

State of South Carolina

Opinion No. 79-105

August 23, 1979

***1 SUBJECT: Sales Tax—Reduction of rate of tax to be applied to gross proceeds of sale of electricity, natural gas, fuel oil, etc., when used for residential purposes.**

The term 'residential purposes' as used in the General Appropriations Act of 1979 is construed to mean any space or area occupied by one or more individuals with the intent that such space or area serve as a residence, house, dwelling or abode.

TO: Mr. Reginald U. Smith, Director
Sales and Use Tax Division
South Carolina Tax Commission

QUESTION:

What is the meaning of the term 'residential purposes' as used in an Act recently passed by the General Assembly which calls for the reduction of the rate of sales tax to be applied to the gross proceeds of the sale of electricity, natural gas, fuel oil, LP gas, coal or any other such combustible heating material or substance used for residential purposes over a three-year period?

APPLICABLE LAW:

The General Appropriations Act, 1979, Permanent Provisions, Part II, Section 4, paragraphs (A), (B), (C) and (D).

DISCUSSION:

The Act calls for a reduction in the rate of sales tax to be applied to the sale of electricity and heating materials, some specifically mentioned, when used for residential purposes. The question has arisen as to the meaning of the term 'residential purposes'.

One of the primary rules of statutory construction is that words used in a statute should be taken in their ordinary and popular significance unless there is something in the statute which requires a different interpretation. Hughes v. Edwards, 265 S. C. 529, 220 S. E. 2d 231 (1975); Investors Premium Corp. v. South Carolina Tax Commission, 260 S. C. 13, 193 S. E. 2d 642 (1973). Where the terms of a statute are clear and unambiguous and leave no room for construction, they must be applied according to their literal meaning. Mitchell v. Mitchell, 266 S. C. 196, 222 S. E. 2d 217 (1978); Green v. Zimmerman, 269 S. C. 535, 238 S. E. 2d 323 (1977). Also, it is accepted practice in South Carolina to resort to the dictionary to determine the literal meaning of words used in statutes and the meanings which these words embrace. For cases where this has been done, see Hay v. South Carolina Tax Commission, 273 S. C. 269, 255 S. E. 2d 837 (1979); Fennell v. South Carolina Tax Commission, 233 S. C. 43, 102 S. E. 2d 424 (1958); Etiwan Fertilizer Co. v. South Carolina Tax Commission, 217 S. C. 354, 60 S. E. 2d 682 (1950).

'Residential' is defined in Webster's New World Dictionary, 2d Ed. (1978) to mean:

'Of or connected with residence.'

Webster's defines 'residence' as:

'The act or fact of residing . . . The place in which a person or thing resides; dwelling place; abode; esp., a house.'

Webster's defines 'reside' to mean:

'To dwell for a long time; have one's residence; live (in or at).'

'Purpose' is defined in Webster's as:

*2 'Something one intends to get or do; intention, aim . . . with a specific end in view.'

Judicially, 'residential' has been defined as used, serving or designed as a residence. Johnson v. Guarino, 168 A. 2d 171. It has also been held that the word 'residence' in a restrictive covenant is equivalent to 'residential' and is used in contradistinction to 'business', and that if a building is used as a place of abode and no business carried on, it would be used for 'residence purposes' only, whether occupied by one family or a number of families. Jernigan v. Capps, 187 Va. 73, 45 S. E. 2d 886. Also, the terms 'residence purposes' and 'residences' require use of the property for living purposes as distinguished from uses for business or commercial purposes. MacDonald v. Painter, Texas, 441 S. W. 2d 179.

We, therefore, apply the literal meaning to the term 'residential purposes'.

CONCLUSION:

The term 'residential purposes' as used in the General Appropriations Act of 1979, is construed to mean any space or area occupied by one or more individuals with the intent that such space or area serve as a residence, house, dwelling or abode.

Jackson E. Fields, Jr.
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