

1979 WL 43514 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 10, 1979

*1 Lonnie A. Garvin
General Counsel
Mid-South Mortgage Company, Inc.
T. O. Drawer 1136
Aiken, South Carolina 29801

Dear Mr. Garvin:

Attorney General McLeod has referred your letter of August 2 to me for reply. You have asked whether § 31-13-170(p), which defines 'persons and families of moderate to low income,' was intended to determine eligibility by looking to the annual gross receipts of self-employed persons, or whether it was intended to refer to that income which is left after the expenses of operating the business are paid. While this Office is without authority to render opinions to private citizens, the Housing Authority has also requested an opinion on this question, and this letter will serve as an answer to both requests.

Section 31-13-170(p) defines the class of persons entitled to assistance as:

'Persons and families of moderate to low income 'means those individuals who are members of households whose gross income falls between 75% and 125% of the 'median gross income' of all households in South Carolina as determined on the basis of the latest available statistics furnished to the Authority by the Division of Research and Statistical Services of the State Budget and Control Board.'

There can be no doubt that the commercial terms 'gross receipts', 'gross earnings', 'gross sales' or similar terms indicating income to a business before expenses are not equivalent to personal gross income. Although this question has arisen in relatively few cases, those that have discussed it are in agreement with the general principal stated above; see, e.g., U.S. v. Ballard, 535 F.2d 400.

While, the aforementioned rule makes a clear theoretical distinction between household income and business receipts, the distinction can be difficult to apply in practice. It is the opinion of this Office that the power granted to the Housing Authority in § 31-13-190(18) to 'administer . . . programs over which the Authority has jurisdiction' includes the power to make reasonable decisions within its discretion as to whether a given form of income is gross income to the person or gross receipts to the business.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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