

1978 S.C. Op. Atty. Gen. 250 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-216, 1978 WL 22684

Office of the Attorney General

State of South Carolina

Opinion No. 78-216

May 4, 1978

***1 SUBJECT: Property Tax—Residential Classification—The Five-Acre Limitation Is a Maximum and Not a Minimum Limitation.**

The five-acre limitation for the residential classification of land is a maximum limitation. There is no requirement that 'at least' five acres of a parcel be classified as residential, the requirement being that land up to five acres, the use of which is for residential purposes, be so classified.

TO: Honorable David S. Taylor
Senator
Laurens County

QUESTION:

The legal residence and not more than five (5) contiguous acres may be classified and taxed as residential property. You request an opinion of whether it is mandatory to include the five (5) acres within the residential classification of those persons owning five or more acres or may something less than the five (5) acres be classified as residential with the remainder of such person's land classified differently.

STATUTE:

[§ 12-43-220\(c\), 1976 Code of Laws of South Carolina.](#)

DISCUSSION:

The language of the statute specifically provides that 'not more than five contiguous acres' be classified as residential. The language is a maximum and not a minimum limitation. A person, in example a farmer, that owns more than five acres of land is not required to set aside 'at least' five acres for the legal residence. That portion of the whole, up to five acres, that is actually or customarily set aside for residential purposes, is to be so classed and taxed and the remainder is to be classified as otherwise provided by the statutes.

CONCLUSION:

The five-acre limitation for the residential classification of land is a maximum limitation. There is no requirement that 'at least' five acres of a parcel be classified as residential, the requirement being that land up to five acres, the use of which is for residential purposes, be so classified.

Joe L. Allen, Jr.
Deputy Attorney General

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