

1978 S.C. Op. Atty. Gen. 212 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-187, 1978 WL 22655

Office of the Attorney General

State of South Carolina

Opinion No. 78-187

November 3, 1978

***1 SUBJECT: Property Tax—Constitutionality of Tax Freeze to 1979 Level for Property Owned by Persons Qualified for the Exemption Provided by Section 12–37–250 (Homestead Exemption).**

It is not constitutional to freeze taxes to a 1979 level for real property owned by persons qualified for the exemption provided by Section 12–37–250.

TO: Honorable Heyward McDonald

Senator

District No. 7

QUESTION:

Is it constitutional to freeze taxes to a 1979 level for real property owned by persons qualified for the exemption provided by Section 12–37–250?

APPLICABLE LAW:

Article X of the Constitution.

DISCUSSION:

Article X, Section 1 provides in part that:

‘The General Assembly may provide for the ad valorem taxation by the State or any of its subdivisions of all real and personal property. The assessment of all property shall be equal and uniform in the following classifications: * * *.’ (Emphasis added).

The Section provides for the various classifications of property for tax purposes and the ratios to fair market value for the described properties. To limit the tax to a portion of the class to a 1979 level while not limiting the tax to the remainder would obviously result in a lack of equality and uniformity in the assessment of property within the same class.

Additionally, Section 3 of the Article provides:

‘There shall be exempt from ad valorem 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; * * *.’

The authority of the General Assembly is there limited to that of increasing the fair market value of the homestead. A similar provision in the Constitution before amendment ([Article X, Section 4](#)) was held to be a limitation on the right of the General Assembly to enlarge or restrict the constitutionally granted exemption. [Strong v. Sumter](#), 185 S. C. 203, 192 S. E. 649; [Textile Hall Corp. v. Hill](#), 215 S. C. 262, 54 S. E. 2d 809; [Wofford College Trustees v. Spartanburg](#), 201 S. C. 215, 23 S. E. 2d 9.

A limitation of the tax to the 1979 level for qualifying property is prohibited by the constitutionally provided exemption.

Another Section of [Article X](#) is also applicable. Section 6 provides in part:

'The General Assembly may vest the power of assessing and collecting taxes in all of the political subdivisions of the State. Property tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes; * * *.'

Again the tax would not be uniform under the bill.

CONCLUSION:

*2 It is not constitutional to freeze taxes to a 1979 level for real property owned by persons qualified for the exemption provided by § 12-37-250.

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