

1976 WL 30809 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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*1 Before property can be classified as residential for tax purposes the same must constitute the legal residence of the applicant on January 1 of the tax year.

Honorable David W. Keller, Jr.
Member
House of Representatives

QUESTION

Is there any relief available to a purchaser of a new residence which was completed on January 1, 1976, remained on the open market as vacant property until approximately June 15, at which time it was purchased to be used as a permanent dwelling?

STATUTES INVOLVED

Act 618, Acts of 1976.

DISCUSSION

Section 4 of the above amends Section 2(c) of Act 208, Acts of 1975, and provides in part that:

'This subsection (c) shall not be applicable unless the owner of such property or his agents make written application to the county assessor on or before May first of the tax year in which the initial assessment under this act is made and certify to the following statement: 'Under the penalty of perjury I certify that I meet the qualifications for the special assessment ratio for a legal residence as of January first of the current tax year'. (Emphasis added).

Because this property was not a legal residence on January 1 it cannot qualify for the residential classification. It should be noted that it is the owner of property on December 31 preceding who is the taxpayer and liable for the taxes. A person who acquires the property on June 15 would take the same subject to the tax liability of the grantor and any change in such liability would be by contract between the grantor and grantee. The grantee in this case has already certified his legal residence at the other home which classification carries forward to the grantee of such home for the current tax year.

CONCLUSION

Before property can be classified as residential for tax purposes the same must constitute the legal residence of the applicant on January 1 of the tax year.

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