

Date Issued: February 27, 1986 (AGO 86-10)

Requested by: David M. Wheelihan
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- QUESTION PRESENTED -

Whether the effective dates of 1985 N.D. Session Laws 601, section 1, create a period of ineligibility for the single family residential property tax exemption originally established by 1983 N.D. Session Laws 597, section 1.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the effective dates of 1985 N.D. Session Laws 601, section 1, create a period of ineligibility for the single family residential property tax exemption originally established by 1983 N.D. Session Laws 597, section 1.

- ANALYSIS -

In 1983, the Legislature enacted a bill that enables political subdivisions to exempt single family residential property, condominiums, and townhouses from taxation for two years after the taxable year in which construction began. 1983 N.D. S.L. 597, 601 (codified as note to N.D.C.C. section 57-02-08). The bill "is effective for taxable years beginning after December 31, 1982, for property upon which construction is begun after March 31, 1983, and completed before January 1, 1985, and is ineffective after December 31, 1987." Id

In 1985, the Legislature enacted similar legislation and provided that the exemption "is effective for taxable years beginning after December 31, 1984, for property upon which construction is begun after March 31, 1985, and completed before January 1, 1987, and is ineffective after December 31, 1989." 1985 N.D. S.L. 601. Thus, the effective dates of the two enactments are not successive. A homeowner may be ineligible for the exemption if he or she began construction of a home in October 1984, but did not complete construction of the home until June 1985.

The effective dates of the enactments are not successive, but neither are they conflicting or susceptible of multiple interpretation. As such, they are plain and unambiguous and "there is no room for rules of construction where the words of a statute are plain and unambiguous." *Fredrickson v. Burleigh County* 139 N.W.2d. 250, 252 (N.D. 1965). Moreover, "'provisions exempting property from taxation are to be strictly construed and their operation should not be extended by construction.'" *Lutheran Campus Council v. Board of County Commissioners* 174 N.W.2d. 362, 365 (N.D. 1970) (citation omitted).

The intent of the Legislature in enacting the exemption was largely to stimulate the housing industry and thereby reduce delinquent taxes on vacant residential lots. Hearings on Senate Bill 2295 Before the House Finance & Taxation Committee Forty-eighth Legislative Assembly (March 1, 1983) (statements of Senator Chuck Goodman, sponsor of

bill, and Representative Mike Unhjem, cosponsor of bill). Although a period of ineligibility may appear to conflict with that intent, "when the wording of a statute is unambiguous, the letter of the statute cannot be disregarded under the pretext of pursuing its spirit because the legislative intent is presumed clear from the face of the statute." Rheaume v. State 339 N.W.2d. 90, 92 (N.D. 1983). See also N.D.C.C. section 1-02-05.

The 1985 enactment differs from the 1983 enactment in that the 1985 enactment limits the exemption to dwellings upon which the true and full value of the property, excluding the land, does not exceed seventy-five thousand dollars. 1985 N.D. S.L. 601. The seventy-five thousand dollar limit upon the property values is further evidence that the enactments are distinct and therefore unsuccessive.

Thus, it is my opinion that the effective dates of 1985 N.D. Session Laws 601, section 1, create a period of ineligibility for the single family residential property tax exemption originally established by 1983 N.D. Session Laws 597, section 1.

- EFFECT -

This opinion is issued pursuant to N.D.C.C. section 54-12-01. It governs the actions of public officials until the question presented is decided by the courts.

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