

OPINION NO. 73-003

Syllabus:

The land which a taxpayer owns, and on which he lives in a mobile home, is part of the taxpayer's homestead, and the real property taxes on such land may be reduced pursuant to R.C. 323.151 et seq.

To: Everett Burton, Scioto County Pros. Atty., Portsmouth, Ohio
By: William J. Brown, Attorney General, January 18, 1973

Your request for my opinion reads as follows:

A resident of Scioto County has filed an Application for Homestead Exemption in compliance with Ohio Revised Code 323.151 et seq.

Applicant lives in a mobile home upon land owned by him. He pays the trailer tax and also the real estate tax (a garage, storage shed and aluminum canopy and concrete slab porch are assessed as realty).

We understand that the mobile home does not qualify for exemption since it is taxed as personalty.

Our question: Can the exemption be granted to that property classed as realty?

The trailer tax to which you refer is authorized by R.C. 4503.06,

which reads in part as follows:

(A) All house trailers in this state on the first day of January, except as otherwise provided, are subject to an annual tax, payable by the owner, for the privilege of using or occupying a house trailer in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivision in which the house trailer has its situs pursuant to this section.

* * * * *

(E) The tax shall be computed and assessed by the county auditor of the county containing the taxing district wherein the house trailer has its situs by multiplying the assessable value of the house trailer by the tax rate of the taxing district in which the house trailer has its situs, and shall be not less than thirty-six dollars in any case.

* * * * *

(J) The total amount of taxes collected shall be distributed semiannually at the same time distribution is made of real estate and public utility taxes in the following manner: four per cent shall be allowed as compensation to the county auditor for his service in assessing the taxes; two per cent shall be allowed as compensation to the county treasurer for the services he renders as a result of the tax levied by this section. Such amounts shall be paid into the county treasury, to the credit of a general county fund, on the warrant of the county auditor. The balance of the taxes collected shall be distributed among the taxing subdivisions of the county in which the taxes are collected and paid in the same ratio as real estate and public utility taxes are distributed for the benefit of the taxing subdivision. The taxes levied and revenues collected under this section shall be in lieu of any general property tax and any tax levied with respect to the privilege of using or occupying a house trailer in Ohio except as provided in sections 4503.04 and 5741.02 of the Revised Code.

A house trailer for purpose of this tax is defined by R.C. 4501.01 (I), as follows:

(I) 'House trailer' means any self-propelled and nonself-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to indicated utilities, whether resting on wheels, jacks, or other temporary foundation and used or so constructed as to permit its being used as a conveyance upon the public streets or highways.

The homestead exemption in question is authorized by R.C. 323.151 et seq. The actual reduction in taxes is directed by R.C. 323.152, which may be set out in pertinent part:

The real property taxes on a homestead owned and occupied by a person sixty five years of age or older shall be reduced for any calendar year for which the owner obtains a certificate of reduction from the county auditor under section 323.154 of the Revised Code. The reduction shall be equal to the amount obtained by multiplying the tax rate for the calendar year for which the certificate is issued by the reduction in taxable value shown in the following schedule:

* * * * * * * * *
(Emphasis added.)

A reading of R.C. 4501.01 and 4503.06 makes it clear that the mobile home in question is not subject to real property taxes, but is instead the basis for a separate tax under R.C. 4503.06. Note that R.C. 323.152 provides that it is the real property taxes on the homesteads of eligible taxpayers which are to be reduced. Therefore, since the homestead exemption is a real property tax reduction it can have no effect on the tax paid pursuant to R.C. 4503.06.

As you have indicated, however, in the present case the applicant lives in the mobile home upon land which he owns. This land and the enumerated improvements thereto are assessed as realty. In R.C. 323.151, "homestead", for purposes of the homestead exemption, is defined in the following manner:

* * * * * * * * *

(A) 'Homestead' means a dwelling or a unit in a multiple-unit dwelling or condominium which is owned and occupied as a home by an individual whose domicile is in this state. The homestead shall include so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or unit as a home. An owner includes a vendee in possession under a purchase agreement or a land contract, a mortgagor, one or more joint tenants with right of survivorship, and tenants in common. The board of tax appeals shall adopt rules and regulations for the uniform classification and valuation of real property or portions of real property as homesteads.

* * * * * * * * *
(Emphasis added.)

"Dwelling" is defined in Webster's Seventh New Collegiate Dictionary as "a building or other shelter in which people live", and a mobile home has been held to satisfy this definition. Yeager v. Cassidy, 20 Ohio Misc. 252, 254 (1969). While the reduction granted by R.C. 323.152 is restricted to real property taxes on homesteads, I find no language in these Sections which would require the narrow interpretation of "homestead" to include only situations in which the dwelling, as well as the land on which it is located, is taxed as realty. Of course, the extent to which the land, and the improvements thereto, qualify for the homestead exemption must be determined in accordance with the rules and regulations adopted by the Board of Tax Appeals pursuant to R.C. 323.151. However, land on which an otherwise eligible applicant resides does not fail to qualify for a reduction in taxes

under the homestead exemption merely because the dwelling thereon is not taxable as realty.

In specific answer to your question it is my opinion, and you are so advised, that the land which a taxpayer owns, and on which he lives in a mobile home, is part of the taxpayer's homestead, and the real property taxes on such land may be reduced pursuant to R.C. 323.151 et seq.