

SC SUPREME COURT CONFIRMS 4% PROPERTY TAX RATIO AVAILABLE TO SINGLE-MEMBER LLC



By [Jack Pringle](#)

The South Carolina Supreme Court recently considered the limited liability company (LLC) as a "disregarded entity" for tax purposes. In [CRFE v. Greenville County Assessor](#) issued on August 29th, the Court determined that [S.C. Code Ann. Section 12-43-220\(c\)](#) does not prevent a single-member limited liability company (LLC) owning residential property from obtaining the 4% legal residence property tax ratio.

Sherry Ray bought residential property in Greenville County in her name and lived there, and as a result the property was taxed at the 4% legal residence ratio. She formed CFRE as a single-member LLC with herself as the sole member. (She did not have the LLC taxed as a corporation, and CFRE did no business and was formed only for asset protection/estate planning purposes). In 2006 Ray transferred title to her residence into the LLC. Because that transfer is considered an "assessable transfer of interest" per [S.C. Code Ann. Section 12-37-3150](#), the Assessor reassessed the Property and applied the default 6% ratio.

CFRE applied for the 4% ratio, and both the Assessor and the [South Carolina Administrative Law Court](#) (ALC) denied its request, reasoning that only a "natural person" could qualify for the 4% ratio under the plain language of [S.C. Code Ann. Section 12-43-220\(c\)](#). An LLC, like a corporation, is "not a natural person. It is an artificial entity created by law." [State ex rel. Daniel v. Wells](#), 191 S.C. 468, 5 S.E.2d 181 (1939). The ALC concluded that the 4% ratio found in [S.C. Code Ann. Section 12-43-220\(c\)](#) was not available to CFRE as an artificial entity.

The South Carolina Supreme Court disagreed. Although [S.C. Code Ann. Section 12-43-220\(c\)](#) by itself appears to limit its reach to "natural persons," that statute is only part of the General Assembly's enacted intent. [S.C. Code Ann. Section 12-2-25\(B\)\(1\)](#) also plainly provides that a single-member LLC not taxed as a corporation "is not regarded as an entity separate from its owner" for purposes of all taxes contemplated by Title 12.

In other words, CFRE is not a "natural person," but its sole member Ray is, and because Ray qualifies for the 4% ratio so too does CFRE.