

EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA

INTERPRETATION NO. 118

Opinion of the Attorney General

May 12, 1953

RE: Interpretation of Section 96-8(g)(7)(G) of the Employment Security Law of North Carolina Employment of Mother and Father by an Administratrix of Son's Estate or by a Partnership Composed of Sons.

You, W. D. Holoman, Chief Counsel, refer to Section 96-8(g)(7)(G) of the Employment Security Law which exempts any service performed by an individual in the employ of his son, daughter, or spouse and likewise exempts service performed by a child under the age of 21 in the employ of his father or mother.

Your question relates to the employment of a mother and a father by an administratrix of a son's estate. You concluded in your Interpretation No. 109 that a father and a mother employed by an administratrix of a son's estate were not engaged in exempt employment and should be reported as employees of the administratrix. I think your ruling is correct. To my mind the statute intended to exempt this family employment as long as the individuals were alive and in close personal relationship with each other. It was not intended to carry this exemption beyond the boundaries of death and over into the field of a symbol or legal fiction such as a personal representative who may or may not be a relative. Your attention is called to the fact that under the provisions of G. S. 96-8 (e) the legal representative of a deceased person is made a separate and distinct employing unit.

I, likewise, do not think that a father and mother working for a partnership composed of two sons create any exempt services for the simple reason that the exemption applies only where the father and mother are employed by a son, and the son is the employing unit. As pointed out, a partnership under G. S. 96-8 (e) is again a separate and distinct employing unit. If the statute had intended for these types of services to be exempt, it could so easily have said so.

Adopted as an Official Interpretation of the Commission on May 19, 1953.
(Cancels and replaces Interpretation No. 109, adopted March 24, 1952.)