



## Property Tax Relief for the Elderly and Disabled

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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## Property Tax Relief for the Elderly and Disabled

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Article II, Section 28, of the Tennessee Constitution provides that the legislature "shall provide, in such manner as it deems appropriate, tax relief to elderly, low-income taxpayers through payments by the state to reimburse all or part of the taxes paid by such persons on owner-occupied residential property, but such reimbursement shall not be an obligation imposed directly or indirectly upon counties, cities, or towns." It also authorizes the legislature to provide tax relief to totally and permanently disabled homeowners "as provided herein for the elderly."

T.C.A. § 67-5-702 and T.C.A. § 67-5-703, respectively, provide state-reimbursed tax relief to people age 65 and older and to totally and permanently disabled homeowners under rules and regulations adopted by the state board of equalization. These property owners must meet maximum income requirements set annually in the state's General Appropriations Act. The ceiling is revised yearly based on the cost-of-living adjustment for Social Security recipients. The tax relief applies to the first \$23,000 of the home's full market value. T.C.A. § 67-5-704 provides state-reimbursed tax relief to severely disabled veterans and their surviving spouses on the first \$100,000 of the full market value of their homes, regardless of their total annual income.

The state board of equalization has issued rules and regulations governing the administration of T.C.A. §§ 67-5-701–704, including definitions, age requirements, disability requirements, widows of disabled veterans requirements, certification of ownership and residency requirements, income requirements, methods and handling of applications (including forms and documents), and decertification requirements. Rule 0600-3-.01, *et seq.*

Four statutes authorize municipalities to create their own supplemental tax relief programs for the elderly and disabled. Two are pure tax relief statutes, and two are tax deferral statutes. Under T.C.A. § 67-5-705, the city may, by resolution, adopt a program freezing the property tax of people age 65 and older whose annual incomes do not exceed \$12,000. The tax is frozen at the amount they paid in the tax year they reached 65. Improvements to the property are taxed as prescribed by the statute. In *Perkins v. Alexander*, the Chancery Court of Shelby County on January 10, 1980, declared that statute violated Article II, Section 28, of the Tennessee Constitution, which requires that all property be taxed according to its value, that taxes be equal and uniform within a taxing jurisdiction, and that tax relief for the elderly could not be imposed by the state upon local governments. Although that case has no formal precedential value, it is persuasive.

T.C.A. § 67-5-701(j) allows all counties and municipalities to appropriate funds for the tax relief of elderly low-income and disabled homeowners who are eligible for tax relief under state law. The tax relief provided cannot exceed the total taxes actually paid.

T.C.A. § 67-5-1515 allows a property tax freeze for certain elderly homeowners in Shelby County. This tax freeze is optional for the county governing body but would also apply to municipal taxes.

T.C.A. §§ 7-64-101 *et seq.*, (Chapter 821 [Public Acts 1998] Deferral) authorize municipalities to defer, by resolution, taxes on principal residences owned by single people, married couples over the age of 65, and totally disabled people whose gross annual income is less than \$12,000. The city's governing body may by a two-thirds vote approve an increase in the gross income to \$25,000 a year; approval must be certified to the Tennessee Secretary of State. The tax deferral applies to the principal residence and a maximum of one acre of land and to a maximum of \$60,000 appraised market value. Improvements to the property are taxed as provided in the statute. The assessment of taxes continues on an annual basis, and the tax deferral continues until a terminating event such as death of the person(s) to whom the deferral was granted or sale of the residence. The deferred taxes constitute a lien on the property and earn 10 percent interest annually but are not subject to the statutory penalties for delinquent taxes. The schedule for payment of deferred taxes after a terminating event is set out in the statute.

T.C.A. §§ 7-64-201, *et seq.*, (Chapter 659 [Public Acts 1980] Deferral) authorize municipalities by resolution to defer taxes on principal residences owned by taxpayers and their spouses over the age of 65, totally and permanently disabled taxpayers, and disabled veterans whose combined incomes do not exceed \$12,000 annually. The city's governing body may by a two-thirds vote approve an increase in the gross income to \$25,000 a year; approval must be certified to the Tennessee Secretary of State. The tax deferral is limited to the principal residence and one acre of land and to a maximum appraised value of \$50,000. A qualifying taxpayer who turned 65 on or before March 27, 1980, is entitled to a tax deferral on taxes in excess of his or her 1979 taxes, and a qualifying taxpayer who turned 65 after March 27, 1980, may defer any taxes in excess of the amount of taxes in effect the year the taxpayer turned 65. A qualifying taxpayer who purchases property after turning 65 may defer taxes in excess of the amount of taxes owed in the year the property was purchased. Improvements to property are taxed as provided in the statute. The statute's provisions for a tax lien and interest are similar to those in T.C.A. §§ 7-64-101, *et seq.* Termination of deferral events include death of the person(s) to whom the deferral was granted, sale of the residence, and change in the use of the property from the principal place of residence.

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