

**Office of Legislative Services  
Background Report  
Disabled Veteran's Tax Exemption**

OLS Background Report No. 16

**Prepared By:**  
Local Government

**Date Prepared:**  
November 3, 1999

**New Jersey State Legislature  
Office of Legislative Services**  
State House Annex, P.O. Box 68  
Trenton, NJ 08625-0068  
<http://www.njleg.state.nj.us>

# **OLS Background Report On Disabled Veteran's Tax Exemption**

## **INTRODUCTION**

Article VIII, Section I, paragraph 3 of the New Jersey Constitution, in addition to granting the \$50 property tax deduction for war veterans, authorizes the adoption of statutes granting further deduction from taxation for war veterans with a service-connected disability and their surviving spouses. The statutes subsequently adopted by the Legislature grant certain totally and permanently disabled war veterans and their surviving spouses an exemption from property taxes on their principal residences and the lots on which those residences are situated. The law thereby ensures that a 100% disabled war veteran's home is not lost due to nonpayment of property taxes owed to the municipal government. Because municipal governments presently receive no State reimbursement for the 100% disabled veteran's property tax exemption, the cost of providing the exemption is paid by local property taxpayers.

## **HISTORY**

### **Disabled Veterans' Exemption Authorization**

Prior to the new State Constitution in 1947 there was no constitutional provision authorizing the Legislature to grant property tax benefits to veterans, even though veterans of earlier wars had been receiving a \$500 property tax exemption for years (later changed to a \$50 tax deduction in 1963). New Jersey's 1947 Constitution authorized further deduction from taxation for war veterans with a service-connected disability and their surviving spouses. Enactment of subsequent statutes N.J.S.A.54:4-3.30 and N.J.S.A.54:4-8.10 provide that certain totally and permanently disabled war veterans and their surviving spouses be exempted from property taxes on their principal residences and the lots on which those residences are situated.

The revised State Constitution, including a new authorization to give war veterans with a service-connected disability and their surviving spouses further deduction from taxation as from time to time may be provided by law, was agreed upon by the delegates of the people of New Jersey on June 12, 1947. Article 8, Section 1, paragraph 3 of the Constitution allows for further deductions to be granted to: any citizen and resident of this State honorably discharged from active service in time of war or other emergency having a service-connected disability; or, to the surviving spouse of a serviceperson who died on active duty in time of war or other emergency, while widowed or widowered, and while a resident of New Jersey. The implementing legislation for the veterans' exemption, P.L.1948, c.259, was adopted July 21, 1948. (see Appendix 1 for details).

### **Qualifying for 100% Exemption**

To qualify for a property tax exemption, a veteran must be honorably discharged from active wartime service in the United States Armed Forces and be certified by the Veterans' Administration as having service-connected total or 100% permanent disability. The veteran must fully own and

permanently reside in the dwelling for which the exemption is claimed and be a legal or domiciliary resident of New Jersey. A form must be filed with the municipal tax assessor of the taxing district where the dwelling is located. As the surviving spouse of a disabled veteran who met all of the above eligibility requirements, the widow or widower of a deceased disabled veteran must remain unmarried, and must also be a New Jersey resident and owner-occupant of the claimed dwelling.

## **COST OF THE EXEMPTION**

If all 2,732 of the 100% disabled veterans in New Jersey in 1997 as reported by the Division of Taxation received a full property tax exemption, then, based on the 1997 Statewide average property tax of \$3,986, local property taxpayers in New Jersey would have paid \$10.9 million for the 100% disabled veteran's exemption in 1997. From time to time, legislation is introduced in the Legislature to transfer the cost of paying for the 100% disabled veterans' property tax exemption from local property taxpayers to the State. If such legislation were enacted, the State would assume the \$10.9 million cost, adjusted for current data.

In 1998 the State identified many totally disabled veterans who had paid property taxes for years but had been found retroactively qualified by the U.S. Veteran's Administration as eligible for the 100% disabled veteran's property tax exemption. Municipal governments, while permitted under N.J.S.A.54:4-3.32 to refund taxes collected on property as to which an exemption claim is subsequently allowed, had not been paying such retroactive claims. The municipalities indicated that they did not consider such claims to have been timely filed. Further, municipal governments were reluctant to adopt the required resolution to authorize reimbursement because of the impact on local taxpayers. Consequently, a \$5.0 million, one-time, State funded retroactive property tax reimbursement was issued in August of 1998 to 397 totally and permanently disabled war veterans or their surviving spouses who had paid property taxes on their principal residences when they should have been exempt from property taxation. Over 500 applications for reimbursement were received and processed by the Division of Taxation in the Department of the Treasury. The filing period for State reimbursement ran from January 1, 1998 through March 31, 1998.

## **APPENDIX 1**

### **ELIGIBILITY CRITERIA FOR DISABLED VETERANS, SURVIVING SPOUSES of DISABLED VETERANS and SURVIVING SPOUSES OF SERVICE PERSONS**

#### **Full Tax Exemption**

The law, N.J.S.A. 54:4-3.30, states that certain war veterans as set forth in N.J.S.A.54:4-8.10 who have certain service-connected disabilities of a character described in the law or who have been declared totally or 100% permanently disabled are granted full tax exemption on their dwelling

## Disabled Veteran's Tax Exemption

November 3, 1999

Page 3

house and the lot or curtilage on which it is located, as of the date the property is acquired by such a veteran, or as of the date the veteran property owner is declared totally or 100% permanently disabled by the United States Veterans Administration.

The surviving spouse of a New Jersey resident disabled veteran or the surviving spouse of a resident disabled veteran serviceperson who at the time of death was lawfully entitled to the exemption, is eligible, on making proper claim, for the same exemption as the deceased spouse or serviceperson, while widowed or widowed, and while a State resident and the legal owner and actual occupant of the dwelling house on the premises to be exempted or any other dwelling thereafter acquired and used as the principal place of residence.

The surviving spouse of a disabled veteran or serviceperson who would have become eligible had that serviceperson lived is qualified to receive the exemption based on the broadening of the tax exemption on January 10, 1972.

### **Eligibility**

To qualify for the property tax exemption, the disabled war veteran must meet all requirements of New Jersey citizenship and legal or domiciliary New Jersey residence; must have principal or permanent residence in the claimed dwelling as well as full property ownership; must have honorable discharge, VA certified 100% permanent and total disability and active wartime service in the United States Armed Forces.

### ***Active Wartime Service Periods pursuant to N.J.S.A.54:4-8.10 are as follows:***

!	Operation "Joint Guard"	- December 20, 1996 - Ongoing;
!	Operations "Joint Endeavor"	- November 20, 1995 - December 20, 1996;
!	Operation "Restore Hope"	- December 5, 1992 - March 31, 1994;
!	Operation Desert Shield/Desert Storm Mission	- August 2, 1990 - Ongoing;
!	Panama Peacekeeping Mission	- December 20, 1989 - January 31, 1990;
!	Lebanon Peacekeeping Mission	- September 26, 1982 - December 1, 1987;
!	Grenada Peacekeeping Mission	- October 23, 1983 - November 21, 1983;
!	Vietnam Conflict	- December 31, 1960 - May 7, 1975;
!	Korean Conflict	- June 23, 1950 - January 31, 1955;
!	World War II	- September 16, 1940 - December 31, 1946;
!	World War I	- April 6, 1917 - November 11, 1918;
!	United State Military Forces in Russia	- April 6, 1917 to April 1, 1920.

Note that peacekeeping Missions require actual service in a combat zone for a total of 14

days, unless a service injury was received in a combat zone.

***Disability.*** A service-connected disability as declared by the United States Veterans Administration consists of:

- ! paraplegia, sarcoidosis, osteochondritis resulting in permanent loss of the use of both legs or permanent paralysis of both legs and lower parts of the body;
- ! hemiplegia involving permanent paralysis of one leg and one arm on either side of the body, resulting from injury to the spinal cord, skeletal structure, or brain, or disease of the spinal cord not resulting from any form of syphilis;
- ! total blindness;
- ! amputation of both arms or both legs, or both hands or both feet, or the combination of a hand and foot;
- ! any other service-connected disability declared by the Veterans' Administration to be a total or 100% permanent disability and not so evaluated because of hospitalization or surgery and recuperation.

The disability must have been sustained through:

- ! enemy action;
- ! accident; or
- ! disease contracted while in active service "in time of war."

Note that paraplegia or hemiplegia resulting from locomotor ataxia, or other forms of syphilis of the central nervous system, or from chronic alcoholism, or other forms of disease resulting from the veteran's own misconduct are **not** grounds for a disabled veteran's property tax exemption (see N.J.S.A.54:4-3.30).

### **Property Ownership and Occupancy**

***Ownership.*** A disabled veteran must have full ownership of the property for which the exemption is claimed. A disabled veteran and spouse taking property title as tenants by the entirety must meet the full ownership requirement. A disabled veteran possessing a dwelling as a vendee under executory contract for purchase of the land where the dwelling on the land is that disabled veteran's principal residence is regarded as having full ownership. The executory contract is deemed to be a mortgage for the unpaid balance of the purchase price. A disabled veteran who owns a dwelling unit in a condominium property meets the full ownership prerequisite. A disabled veteran having a life estate, life tenancy or lifetime rights to a property fulfills the ownership requirement. A multi-unit building such as a duplex must be fully owned by the veteran, but only that portion utilized as the veteran's dwelling unit would be exempted.

**Occupancy.** The disabled veteran must occupy the dwelling as his or her legal or domiciliary residence in New Jersey. Full exemption applies to a one-family owner occupied building or structure, together with its lot or curtilage and the necessary out-houses or appurtenances. Where part of a multiple-unit building or structure is occupied by a veteran, the assessment on the lot or curtilage and veteran-occupied portion of the building or structure is to be aggregated to exempt that percentage of assessment in proportion to or as compared with the assessed value of the entire building or structure.

**Ineligible Ownership.** Property in which a claimant has only a fractional interest as a joint tenant or tenant in common is **not** exempt. Mutual housing corporations and cooperative dwelling units do **not** qualify for exemption because title is not held to the real property (see N.J.S.A.54:4-3.31).

### **Exemption Prorated**

Partial or prorated exemption is permitted for the remainder of any tax year as of the date of property ownership or the date of 100% permanent and total disability rating provided all other eligibility requirements are met (see N.J.S.A.54:4-3.31).

### **Curtilage**

Curtilage means the enclosed space of ground and buildings immediately surrounding a dwelling house. The State Division of Tax Appeals in 1971 held that 51 acres owned by a disabled veteran across the road from where he resided with his family could not be included in the curtilage. The State Division of Tax Appeals stated that a "curtilage is a piece of ground within the common enclosure belonging to a dwelling house and enjoyed with it for its more convenient occupation." This interpretation was reaffirmed in a subsequent case where two acres of a 40 acre parcel were exempted as reasonable for the fair enjoyment of the residence.

### **Surviving Spouses**

If a deceased disabled war veteran is qualified for a property tax exemption at the time of death, eligibility status inures to the surviving spouse if the survivor meets all of the following requirements. The widow or widower:

- ! must remain unmarried;
- ! must be a citizen and resident of New Jersey;
- ! must reside in the claimed dwelling as a permanent and principal residence;
- ! must be full legal owner of the dwelling;
- ! must apply for the exemption with the municipal assessor;
- ! must verify that the deceased veteran was declared by the United States Veteran's

Administration to have had a qualifying service-connected 100% permanent and total disability as described in statute;

- ! must verify that the deceased veteran was entitled to *a property tax exemption at the time of death, meeting all criteria of active wartime service, honorable discharge, residency, ownership etc. or would have been entitled had the broadening of the definition of disability via (P.L.1971, c.398) to include total or 100% permanent disability been in effect during the veteran's lifetime.*

### **Statute Broadened**

Although it was formerly necessary for the disabled veteran to have been receiving the property tax exemption on the dwelling house while living for the surviving spouse to qualify, such is no longer true. If the deceased veteran would have been entitled to exemption, then the surviving spouse is entitled to the exemption (see N.J.S.A.54:4-3.30).

### **Ownership Exception for Surviving Spouse of a Serviceperson**

The widow or widower of a citizen and New Jersey resident serviceperson who died on active wartime duty in the Armed Forces of the United States is entitled to a property tax exemption on a dwelling house used as a principal residence. The Division of Taxation has ruled that a qualified surviving spouse is entitled to exemption despite the fact that the deceased serviceperson did not own legal title to the dwelling house (N.J.S.A.54:4-3.30 and 54:4-3.31).

### **Taxes Refunded**

The governing body of each municipality, at its discretion, may, by resolution, refund all taxes collected on any property which would have been exempt from taxation if proper claim in writing had been timely made. For qualified veterans having certain service-connected disabilities described in the law (generally characterized as paralysis or loss of limbs), no refund of taxes may be made for any year prior to the tax year 1948. For qualified veterans who have been declared by the Veterans' Administration to have a service connected, total or 100% permanent disability pursuant to statutory amendment for tax year 1972 and thereafter, no tax refunds may be made for any year prior to tax year 1972 (see N.J.S.A.54:4-3.31 and 54:4-3.32).

### **Application Process and Appeals Procedure**

Questions regarding the application process and required supporting documentation, or the appeals procedure available in the case of a denial of a property tax exemption, should be referred to the municipal tax assessor. All claims for disabled veterans' and surviving spouses' property tax exemptions must be made in writing to the municipal assessor, who determines the validity of the claim.

Disabled Veteran's Tax Exemption  
November 3, 1999  
Page 7

For further information, contact:  
Gerald M. Dowgin  
Office of Legislative Services  
(609) 292-1596  
[www.njleg.state.nj.us](http://www.njleg.state.nj.us)