June 23, 2023

Disabled Veterans Exemptions

VACOMREV Veterans Liaison Committee

- Tommy Blackwell – Essex County
- Tim Demeria – City of Manassas
- Mitch Nuckles – City of Lynchburg
- Jamie Timberlake – Powhatan County
- Gerald Gwaltney – Isle of Wight County
- 100+ Years of Combined Experience

VACOMREV Veterans Liaison Committee

The Honorable Thomas M. Blackwell, MCR

Commissioner of the Revenue
Essex County, Commonwealth of Virginia

Thomas M. "Tommy" Blackwell grew up in Essex County, Virginia and graduated from Tappahannock High School in 1970. He attended the University of North Carolina at Chapel Hill on an NROTC scholarship and received his chemistry degree in 1974. After serving as a Surface Warfare Officer in the U.S. Navy, he retired as Commander, U.S. Naval Reserve in 1994, and then earned a degree in computer science from Mary Washington College in 1996. After 30+ years of combined active, reserve, and civilian service with the U.S. Navy, Blackwell was elected Commissioner of the Revenue (COR) in November 2005 and has served Essex County and the Commonwealth of Virginia for almost 18 years. He received his professional designation as Master Commissioner of the Revenue (MCR) in 2011 from the University of Virginia Weldon Cooper Center for Public Service. In 2019, he was elected President of the Commissioners of the Revenue Association of Virginia (VACOMREV) at its Centennial Conference in Colonial Williamsburg, and he currently serves as the COR representative on the Virginia Association of Local Elected Constitutional Officers (VALECO) Executive Board.

Tommy married the former Lillian Baird of Essex County and they reside on the Rappahannock River at "Otterburn Farm" in Chance, VA.

Overview

Real Estate

Real Estate Exemption

The 2010 Referendum:

- Shall the Constitution be amended to require the General Assembly to provide a real property tax exemption for the principal residence of a veteran, or his or her surviving spouse, if the veteran has a 100 percent service-connected, permanent, and total disability?

- 82% of voters voted “Yes”

Real Estate Exemption

THE VIRGINIA CONSTITUTION ARTICLE X, SECTION 6(A)
(Ratified 2010, effective January 1, 2011)

Section 6-A. Property tax exemption for certain veterans.

Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the restrictions and conditions prescribed therein, shall exempt from taxation the real property, including the joint real property of husband and wife, of any veteran who has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a one hundred percent service-connected, permanent, and total disability, and who occupies the real property as his or her principal place of residence. The General Assembly shall also provide this exemption from taxation for real property owned by the surviving spouse of a veteran who was eligible for the exemption provided in this section, so long as the surviving spouse does not remarry and continues to occupy the real property as his or her principal place of residence.

Real Estate Exemption

General Assembly Codifies Amendment

§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.

A. Exempts principal residence of Disabled Veteran with 100% service-connected, permanent, and total disability effective Jan. 1, 2011.

B. Surviving spouse eligible if spouse does not remarry and occupies principal residence.

C. Exempts up to 1 acre or more equal to locality's elderly relief exemption.

Real Estate Exemption

The 2014 Referendum:

- Shall Section 6-A of Article X (Taxation and Finance) of the Constitution of Virginia be amended to allow the General Assembly to exempt from taxation the real property of the surviving spouse of any member of the armed forces of the United States who was killed in action, where the surviving spouse occupies the real property as his or her principal place of residence and has not remarried?

- 87% of voters voted “Yes”

Real Estate Exemption

THE VIRGINIA CONSTITUTION ARTICLE X, SECTION 6(A)
(Ratified 2014, effective January 1, 2015)

Section 6-A. Property tax exemption for certain veterans and surviving spouses of soldiers killed in action.

(b) Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the restrictions and conditions prescribed therein, may exempt from taxation the real property of the surviving spouse of any member of the armed forces of the United States who was killed in action as determined by the United States Department of Defense, who occupies the real property as his or her principal place of residence. The exemption under this subdivision shall cease if the surviving spouse remarries and shall not be claimed thereafter. This exemption applies regardless of whether the spouse was killed in action prior to the effective date of this subdivision, but the exemption shall not be applicable for any period of time prior to the effective date. This exemption applies to the surviving spouse's principal place of residence without any restriction on the spouse's moving to a different principal place of residence and without any requirement that the spouse reside in the Commonwealth at the time of death of the member of the armed forces.

Real Estate Exemption

General Assembly Codifies Amendment

- § 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed forces killed in action.

  A. Exempts principal residence of surviving spouse if
     1. U.S. Department of Defense determines “killed in action” status.
     2. “died of wounds received in action” included in KIA definition.
     3. Real property is principal place of residence.
     4. Qualification is for members killed in action after January 1, 2015.

  B. Exemption may not exceed the average assessed value of a dwelling in the locality.

Real Estate Exemption

General Assembly Codifies Amendment

- § 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed forces killed in action.

C. Surviving spouse loses exemption if he/she remarries.

D. Exempts up to one acre or more equal to locality's elderly relief exemption.

1. Additional improvements may be exempted if primary use is to cover motor vehicles or household goods (i.e., garage, shed).
2. Not used for business purpose.

Real Estate Exemption

General Assembly Codifies Amendment

- § 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed forces killed in action.

E. Ownership:
   1. Held by surviving spouse as a tenant for life
   2. Held in a revocable inter vivos trust
   3. Held in an irrevocable trust

F. If spouse does not have 100% ownership, then exemption is prorated based on spouse's percentage of ownership.

Real Estate Exemption

The 2018 Referendum:

- Shall the real property tax exemption for a primary residence that is currently provided to the surviving spouses of veterans who had a one hundred percent service-connected, permanent, and total disability be amended to allow the surviving spouse to move to a different primary residence and still claim the exemption?

- 84% of voters voted “Yes”

Real Estate Exemption

THE VIRGINIA CONSTITUTION ARTICLE X, SECTION 6(A)
(Ratified 2018, effective January 1, 2019)

Section 6-A. Property tax exemption for certain veterans and their surviving spouses and surviving spouses of soldiers killed in action.

Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the restrictions and conditions prescribed therein, shall exempt from taxation the real property, including the joint real property of husband and wife, of any veteran who has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a one hundred percent service-connected, permanent, and total disability, and who occupies the real property as his or her principal place of residence. The General Assembly shall also provide this exemption from taxation for real property owned by the surviving spouse of a veteran who was eligible for the exemption provided in this section, so long as the surviving spouse does not remarry ~~and continues to occupy the real property as his or her principal place of residence~~. This exemption applies to the surviving spouse's principal place of residence without any restriction on the spouse's moving to a different principal place of residence.

Real Estate Exemption

General Assembly Codifies Amendment

1) 2019 General Assembly amends § 58.1-3219.5 & § 58.1-3219.9.
2) Surviving spouse may move to a new principal residence without restriction.
3) Effective Jan. 1, 2019 surviving spouse may move and continue to receive exemption.
4) If surviving spouse moved prior to Jan. 1, 2019 and lost exemption, spouse may reclaim exemption as of Jan. 1, 2019.

Application Process

Real Estate Exemption

To qualify for the exemption, the veteran must satisfy three conditions:

1. Qualifying disability rating includes "permanent and total" rating from the VA,
2. Ownership (solely or jointly), and
3. Principal residency.

Real Estate Exemption

To qualify for the exemption, the surviving spouse must satisfy four additional conditions:

1. Married to the veteran on or after January 1, 2011,
2. The death of the veteran must have occurred on or after January 1, 2011,
3. The spouse must not remarry, and
4. The spouse may now relocate within the Commonwealth of Virginia, provided that the residence is the principal place of residence and all other qualifications are met.

Real Estate Exemption

To qualify for the exemption, the surviving KIA spouse must satisfy three additional conditions:

1. Married to the veteran on or after January 1, 2015,
2. The death of the veteran must have occurred in combat, and
3. The spouse must not remarry.

Qualifications

“100% Service-Connected, Permanent, and Total Disability” and “Disability Rating”

- Veterans rated by the VA and given rating from 0% to 100%, in increments of 10%, and are based on the impairment of a veteran’s occupational earning capacity.
- Rating involves a medical assessment and determination veteran’s inability to engage in substantially gainful employment.
- Highest disability grade of 100% means that a veteran is totally disabled.
- Disability rating is the result of the VA using “a combined rating table that considers the effect from the most serious to the least serious conditions.”
- “Disability rating” is the term covering all the veteran’s combined disabilities. It is not to be interpreted as “singular” for “a disability” but the sum total rating.
- “100% service-connected, permanent, and total disability rating” relates to the veteran’s inability to engage in “substantially gainful employment,” meaning a job that pays at least the annual poverty level set by the federal government.

Effective Dates (FAQ)

Q. What are the effective dates of Article X, § 6-A?

- Article X, § 6-A is January 1, 2011.
- §§ 58.1-3219.5 and 58.1-3219.6 is April 6, 2011;
- Statutory provisions must be applied retroactively to January 1, 2011. (AG Opinion 7/15/11)
- § 58.1-3219.9 is January 1, 2015.

Effective Dates (FAQ)

Q. Do the provisions of §§ 58.1-3219.5 and 58.1-3219.6 apply to veterans who are disabled before the effective date of these provisions?

A. Yes. As long as the veteran meets all other qualifications, the service-connected disability can be from a conflict pre-2011.

Effective Dates – Surviving Spouse (FAQ)

Q. Does a legal means exist to extend the tax exemption to the surviving spouse of a veteran who was rated 100% service-connected, permanent, and total disability but died before the exemption’s effective date?

A. Any such authority would have to come from the General Assembly and voters of Virginia through an amendment to the Constitution.

Qualifications (FAQ)

Q. Must the veteran have a specific letter, or may they use any official correspondence from the VA that says "100% service-connected, permanent, and totally disabled"?

A. YES. The U.S. Department of Veterans Affairs mass mailed letters dated 4/18/2011 to ALL disabled veterans in Virginia. The letter has a section near the bottom of the first page called VA Benefits Information, which provides questions and answers to the three factors for making an exemption determination.

Three (3) Qualifications Factors (FAQ)

- Service-connected disability: Yes/No Your combined service-connected evaluation
- is: XX%
- Are you being paid at the 100 percent rate because you are unemployable due to your service-connected disabilities: Yes/No or Not Indicated
- Are you considered to be totally and permanently disabled due to your service connected disabilities: Yes/No*

*If the “total and permanent” line is not in the letter then the veteran has not been given the permanent and total rating.

*Some may say 100% disability rating but it is a temporary condition.

Disability Rating (FAQ)

Q. Do the provisions of §§ 58.1-3219.5 and 58.1-3219.6 apply to veterans rated by the U.S. Department of Veterans Affairs (VA) with a total disability rating on the basis of individual unemployability due to service-connected disability?

A. Yes. The tax exemption applies to veterans rated by the VA with a total disability rating on the basis of individual unemployability due to a service-connected disability which rating.

(AG Opinion 7/15/11)

Refunds (FAQ)

Q. If the veteran qualifies back to the effective date of January 1, 2011, must the Commissioner of the Revenue apply exemption retroactively back to 2011 or the standard three years?

A. Some jurisdictions have been applying the tax exemption retroactively back to 2011, even though that is now more than three years past. The DVS Commissioner opined that this is a local matter. The Commissioner of the Revenue, with the support of the governing body, may retroactively apply the exemption back to 2011. No locality shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's filing of the affidavit or written statement required by § 58.1-3219.6.

Residency (FAQ)

Q. If the disabled veteran can no longer live unattended and someone moves into the real property to assist with care – does the exemption continue to apply?

A. This only relates to the income provisions in Tax Relief for the Elderly and Disabled program, and is not applicable to disabled veterans – unless they are named on the title. In that case, an apportionment of the exemption may be necessary. If the caregiver moves into the veteran’s primary residence and the veteran’s name remains on the mortgage/deed to the house in full or part then they still qualify.

Returning to Taxable Status (FAQ)

Q. When the disabled veteran dies, if there is not a surviving spouse, at what point will the real property revert to taxable status?

a) Date of death of the disabled veteran?

b) At the next following tax day i.e., January 1 or other set tax day?

A. Article 2.3 is silent on return to taxable status. However, the exemption is predicated on the fact that the exemption exists as a result of the property being the principal residence of the qualifying veteran and, as such, should that no longer be the case and there is not a surviving spouse, then it is reasonable to conclude that the exemption ceases on the death of the veteran.

Surviving Spouse (FAQ)

Q. Does a surviving spouse who was married to an eligible veteran qualify for the tax exemption when the veteran was disabled before the effective date of the tax exemption?

A. The surviving spouse of a veteran who is disabled before the January 1, 2011, but still alive on or after January 1, 2011 does qualify for this exemption. (AG Opinion 7/15/11) The veteran may have sustained injuries/disability in any conflict and qualify – as long as they are alive on the effective date.

Qualification Effective Date (FAQ)

Q. Do the provisions of §§ 58.1-3219.5 apply to otherwise qualifying veterans who die before the effective date of these provisions, and their spouses who have not remarried and continue to occupy the real property as their principal place of residence?

A. The provisions of §§ 58.1-3219.5 do not apply. (AG Opinion 7/15/11 for §§ 58.1-3219.5)

Surviving Spouse (FAQ)

Q. Does the surviving spouse of a service member killed in action before January 1, 2015 qualify?

A. Yes. This exemption applies regardless of whether the spouse was killed in action prior to the effective date of this subdivision, but the exemption shall not be applicable for any period of time prior to the effective date. (AG Opinion 12/18/15)

Include in Land Book?

Q. Should the exemption granted to the disabled veteran be included in the tax exempt real estate book?

A. These exemptions should be treated like tax relief for the elderly/disabled exemptions. Code section 58.1-3219 for disabled veterans is included under Chapter 32 for Real Property Tax instead of under Chapter 36 for Tax Exempt Property. They should be listed in the taxable book and the exemption handled similar to TRE reductions. Information should be confidential.

Town Qualification?

Q. I have towns in my county. Does the veteran have to also file with the town to qualify for the exemption for town real estate tax?

A. Unlike the regular tax relief program, there is no provision for the town to have different requirements for the exemption; therefore, filing with the county commissioner is all that is required. However, the Commissioner will need to notify the town office of any qualified taxpayer in their respective towns.

Who interprets and implements code?

Q. Who is the correct official in the Commonwealth who has the responsibility for interpreting and implementing §§ 58.1-3219.5 and 58.1-3219.6?

A. The Commissioner of the Revenue has the responsibility for interpreting and implementing §§58.1-3219.5 and 58.1-3219.6. (AG Opinion 7/15/11)

B. The Commissioner of the Department of Veteran's Services was tasked with the responsibility for promulgating rules and regulations governing the administration and implementation of the property tax exemption. The DVS Commissioner may also receive and decide appeals upon denial of an application.

Manufactured/ Mobile Homes

Q. If the mobile home is classified as the primary residence and taxed at the real estate rate, does the exemption apply? Does it apply to the parcel per the acreage limits?

A. As of July 1, 2016 mobile or manufactured homes qualify – if the qualifying veteran meets all other requirements and has proof that the manufactured home is his/her primary residence.

Manufactured/mobile homes used for camping or other non-primary residence uses do not qualify.

If the veteran owns the manufactured/mobile home but not the land it sits upon, then the land does not qualify for the tax exemption and the two can be separated out for tax purposes. If the veteran owns the land and the manufactured/mobile home, then the acreage limits apply and both the land and manufactured/mobile home qualify for the tax exemption.

New Construction

Q. Can the real property in question be under construction and receive the benefit of the disabled veteran exemption?

A. The Code requires the real property to be occupied as the principal residence of the veteran. A home under construction will not qualify for tax years before it is complete and inhabited by the veteran or surviving spouse.

Sheds, Barns, Other buildings?

Q. Are improvements to the primary residence or land able to receive the benefit of the disabled veteran exemption? i.e., sheds, barns, other buildings?

A. Any improvements, additions, etc. to the primary residence must be attached the primary residence. As of January 1, 2017, the law allows for inclusion in the exemption of improvements to be made "other than the dwelling" including the land upon which the improvement is situation – so long as "the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose."

Dual Purpose Residence

Q. Would the exemption apply in total as long as the property is the residence of the veteran even if the residential portion is above a commercial store, such as a grocery or commercial repair garage?

A. It is recommended to use the same logic as TRE/Disabled in this case. That portion of the structure used as the principal residence would receive an exemption and the rest of the improvement(s) would not.

Acreage Restriction Authority

Q. Does the General Assembly have the authority to enact the provision in § 58.1-3219.5 that restricts the tax exemption to land not exceeding one acre in size?

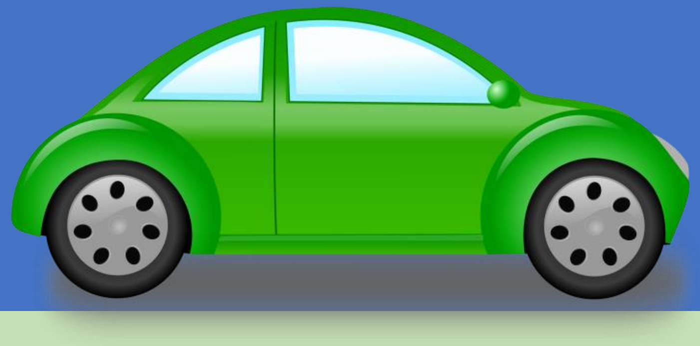
A. The General Assembly has the authority to limit the tax break to land that does not exceed one acre. (AG Opinion 7/15/11)

Finding Definitions

Q. Where can I find the definition of the term "real property" and other terms related to this tax exemption?

A. All relevant terms are defined in the Policy Regarding the Mandate §§ 58.1-3219.5 and 58.1-3219.9, which is contained in this publication and upon request to DVS.

Personal Property Exemption



The 2020 Ballot Question:

Should and automobile or pickup truck that is **owned and used primarily by or for a veteran** of the United States armed forces or the Virginia National Guard who has a one hundred percent service-connected, permanent, and total disability be free from state and local taxation?

Personal Property Exemption

THE VIRGINIA CONSTITUTION ARTICLE X SECTION 6(A)(8):

(8) One motor vehicle **owned and used primarily by or for a veteran** of the armed forces of the United States or the Virginia National Guard who has been rated by the United States Department of Veterans Affairs or its successor agency pursuant to federal law with a one hundred percent service-connected, permanent, and total disability. For purposes of this subdivision, the term **"motor vehicle" shall include only automobiles and pickup trucks.** Any such motor vehicle owned by a married person may qualify if either spouse is a veteran who is one hundred percent disabled pursuant to this subdivision. This exemption shall be applicable on the date the motor vehicle is acquired or the effective date of this subdivision, whichever is later, but shall not be applicable for any period of time prior to the effective date.

Personal Property Exemption

The Law as Adopted:

§ 58.1-3668. Motor vehicle of a disabled veteran.

A. As used in this section, "motor vehicle" means only a passenger car or a pickup or panel truck, as those terms are defined in § 46.2-100, that is registered for personal use.

B. Pursuant to subdivision (a)(8) of Article X, Section 6 of the Constitution of Virginia, one motor vehicle **owned and used primarily by or for a veteran** of the Armed Forces of the United States or the Virginia National Guard who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law with a 100 percent service-connected, permanent, and total disability shall be exempt from taxation. Any such motor vehicle owned by a married person may qualify if either spouse is a veteran who is rated as 100 percent disabled. Any locality may establish procedures for a veteran to apply for the exemption and may enact any ordinance necessary for administration of the exemption.

Personal Property Exemption

The Law as Adopted:

§ 58.1-3668. Motor vehicle of a disabled veteran.

C. This exemption shall be applicable beginning on the date the motor vehicle is acquired or January 1, 2021, whichever is later, and shall not be applicable for any period of time prior to January 1, 2021. The exemption **shall expire on the date of the disabled veteran's death and shall not be available for his surviving spouse.**

D. The provisions of § 58.1-3980 shall apply to the exemption granted pursuant to this section. 2021, Sp. Sess. I, c. 156.

Personal Property Exemption

Qualifying Vehicle:

Personal Property Exemption

Vehicles owned by a Married Person:

“Under this amendment, a motor vehicle that is owned by the spouse of a veteran of the United States armed forces or the Virginia National Guard with a one hundred percent (100%) service-connected, permanent, and total disability could also be free from taxation.”

Personal Property Exemption

VEHICLE OWNED BY A TRUST:

Personal Property Exemption

TYPE OF MOTOR VEHICLE ELIGIBLE FOR EXEMPTION:

PASSENGER CAR

PICKUP

PANEL TRUCK

Personal Property Exemption

WHEN DOES EXEMPTION BEGIN:

1) The Disabled Veteran’s Personal Property Exemption is effective January 1, 2021.

2) In prorating and non-prorating localities, the exemption begins on the date of the disabled veteran’s designation.

3) The exemption shall expire on the date of the disabled veteran's death and shall not be available for his surviving spouse.

4) The provisions of § 58.1-3980 shall apply to the exemption granted pursuant to this section.

Questions?