



# City & County of Denver

## Senior Property Tax Exemption Title 39, Article 3, Part 2, Colorado Revised Statutes

In 2000, Colorado voters amended the state Constitution with the adoption of Section 3.5 of Article X. The amendment, and subsequent legislation, created a property tax exemption for two groups of people: a) **Qualifying seniors** and b) **Surviving spouses of seniors who previously qualified**.

For those who qualify, 50 percent of the first \$200,000 in actual value of their primary residence is exempted. The state will pay the exempted property tax. The exemption is effective January 1, 2002 for tax bills payable beginning in 2003. Yearly notice of the availability of the senior property tax exemption must be mailed no later than May 1 to the owners of all residential property in Colorado. Qualified individuals must file an application for exemption. Individuals may contact the county assessor's office to request an application form.

For the purpose of the exemption, "**primary residence**" is synonymous with "residence" as defined for voter registration purposes in Title 1, Article 1, Section 104(43) of the Colorado Revised Statutes. The statute is quoted as follows: "*Residence*' means the principal or primary home or place of abode of a person, as set forth in section 1-2-102." Pertinent sections of 1-2-102(1), C.R.S. include the following:

*(a) (1) The residence of a person is the principal or primary home or place of abode of a person. A principal or primary home or place of abode is that home or place in which a person's habitation is fixed and to which that person, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A residence is a permanent building or part of a building and may include a house, condominium, apartment, room in a house, or mobile home. No vacant lot or business address shall be considered a residence.*

*(b) In determining what is the principal or primary place of abode of a person, the following circumstances relating to the person shall be taken into account: Business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, existence of any other residences and the amount of time spent at each residence, and motor vehicle registration.*

*(c) The residence given for voting purposes shall be the same as the residence given for motor vehicle registration and for state income tax purposes.*

### Eligibility Requirements

#### Qualifying Senior:

- 1) The qualifying senior must be at least 65 years old on January 1 of the year in which he/she qualifies; and
- 2) The qualifying senior must be the owner of record, and must have been the owner of record for at least ten consecutive years prior to January 1; and
  - a. Title to the property can be held either by the qualifying senior alone, by the qualifying senior together with his or her spouse, or by the qualifying senior together with other individuals.
  - b. Title can be held individually, as joint tenants, or as tenants in common. The qualifying senior can also hold a life estate in the property.
  - c. Owner of record means an individual whose name appears on a valid recorded deed to residential real property as an owner of the property.
- 3) The qualifying senior must occupy the property as his/her primary residence, and must have done so for at least ten consecutive years prior to January 1. (*Certain **exceptions** to the ownership and occupancy requirements have been enacted into law. See "Exceptions to Ownership and Occupancy Requirements".*)

#### Surviving Spouse of a Senior Who Previously Qualified:

- 1) The surviving spouse must have been legally married to a senior who met the above requirements on January 1 of the year the senior passed away; and
- 2) The surviving spouse cannot have remarried; and
- 3) The surviving spouse must have occupied the residential real property with the qualifying senior as his or her primary residence and must still occupy the same property.

#### Exceptions to Ownership and Occupancy Requirements:

- 1) The applicant may still qualify if the ownership and/or occupancy requirements stated above cannot be met due to any of the following reasons:
  - a. Title to the property is held by the spouse of the qualifying senior.
  - b. The qualifying senior must meet the age and occupancy requirements stated above; and
  - c. The spouse must occupy the property as his or her primary residence.
- 2) Title to the property is held in a trust solely for estate planning purposes.
  - a. The name of the trust must be provided in the application.
  - b. The names of the maker of the trust, the trustee, and the beneficiaries must also be provided in the application.

- c. To qualify, the maker of the trust must be the qualifying senior or spouse.
- 3) Title to the property is held in a corporate partnership or other legal entity solely for estate planning purposes.
  - a. The name of the corporate partnership or other legal entity must be provided in the application.
  - b. The names of the principals must be provided in the application.
  - c. To qualify, the qualifying senior or spouse must be a principal of the corporate partnership or legal entity.
- 4) The qualifying senior, spouse, or surviving spouse is/was confined to a hospital, nursing home, or assisted living facility.
  - a. If not for confinement of the qualifying senior, spouse, or surviving spouse in a health care facility, the individual would occupy the residential real property as his or her primary residence. During confinement, the property:
    - i. is/was temporarily unoccupied; or
    - ii. is/was occupied by the spouse of the person confined or a financial dependent or both.
  - b. Details of the confinement must be provided in the application.
- 5) The prior home was condemned in an eminent domain proceeding by a governmental entity, or it was sold to a governmental entity upon threat of condemnation by eminent domain.
  - a. Verification of the condemnation or threat of condemnation must be provided with the application. The assessor may request any information to verify the circumstances of condemnation.
  - b. If the qualified senior owned and occupied another property in between owning the condemned property and the property for which application is being made, qualification for exemption is lost, as the 10-year owner/occupancy requirement cannot be waived.
  - c. Had the condemnation or threat of condemnation not occurred, the qualified senior would satisfy the ownership and occupancy requirements on the prior residence, and would be applying for exemption on that property.

### **Other Requirements/Limitations**

The application must be filed by July 15 of the year for which exemption is requested. Filing will be considered timely if the application is postmarked no later than July 15. Under no circumstances will an exemption be allowed for any property taxes assessed prior to the year in which the qualified individual first files an exemption application.

Once an exemption application is filed and approved, the exemption remains in effect for subsequent years. However, statute requires that notice be given to the county assessor within 60 days of any change in the ownership or occupancy that would prevent an exemption from continuing. Once the property no longer qualifies for exemption, the exemption will be removed the following January 1.

If the applicant dies after obtaining the exemption, the applicant's spouse must reapply for the exemption to continue.

If a qualified individual owns a unit in a Common Interest Community (such as a condominium), as defined in 38-33.3-103(8), C.R.S., or owns multiple -dwelling units in which the qualified individual occupies one of the units, an exemption will be allowed only with respect to the dwelling unit that the individual occupies as his or her primary residence.

No more than one exemption per property tax year will be allowed for a single dwelling unit of residential real property, regardless of how many qualified individuals use the home as their primary residence. If a person who does not satisfy the requirements is also an owner of record, the amount of the exemption will not be reduced.

Two individuals who are legally married, and who own more than one piece of residential real property, shall be deemed to occupy the same primary residence and may claim no more than one exemption.

### **The Application**

- 1) Notice of the availability of the senior property tax exemption must be mailed no later than May 1 of each year to the owners of all residential real property.
- 2) The notice must include the eligibility requirements and the instructions for obtaining an exemption application.
- 3) The completed application must be returned to the county assessor no later than July 15 of the first property tax year for which the exemption is claimed. An application returned by mail will be deemed filed on the date it is postmarked.
- 4) Completed exemption applications are confidential.
  - a. County assessors and treasurers, the Property Tax Administrator, the State Treasurer, and the State Auditor may release statistical compilations or informational summaries of any information contained in exemption applications except that the social security numbers cannot be divulged.
  - b. Copies of exemption applications may be used as evidence in any administrative hearing or legal proceeding in which the accuracy or veracity of the application is an issue so long as the applicants' social security numbers are not divulged.
  - c. None of the above parties may provide any other person with a listing of individuals who have applied for an exemption or provide any other information that would enable someone to easily assemble a mailing list of individuals who have applied for the exemption.

### **Assessor's Review and Action**

- 1) The assessor can only grant an exemption to an individual who has timely filed an application establishing that the individual meets the exemption qualifications.

- 2) If the assessor determines that the applicant does not qualify, or if the information provided on the application is insufficient, the assessor will deny the application and mail a statement no later than August 15, explaining the reason(s) for denial.
- 3) The applicant may request a hearing before the county commissioners, and should file immediately after receiving the assessor's decision to ensure a hearing being scheduled with the commissioners.
  - a. The hearing must be held between September 1 and October 1.
  - b. The County Commissioners' decision is not subject to further administrative appeal by either the applicant or the Assessor.

### **Property Tax Administrator's Review and Action**

- 1) No later than October 5, each county assessor must file an annual report with the Property Tax Administrator (administrator) listing the exemptions allowed for the current year.
- 2) The administrator will review the reports to determine whether or not any applicants have claimed more than one exemption in Colorado.
- 3) By November 1, the administrator will notify those applicants who have claimed more than one exemption that they are not entitled to any exemption.
- 4) The applicants may file a written protest with the administrator no later than November 15.
  - a. The sole ground for the protest is that the applicant filed only one claim for an exemption.
  - b. The protest must specify the property or properties upon which no exemption was claimed.
  - c. The administrator shall request copies of the applications from the appropriate assessor(s).
  - d. If the protest is denied, the administrator must provide a written statement of the basis for the denial and a copy of each exemption application filed with an assessor. Applicants have the right of appeal to the Board of Assessment Appeals within 30 days of the date of the administrator's decision, 39-2-125(1)(b), C.R.S.
- 5) The administrator will provide assessors with written notices of denials so that the exemptions can be removed.

### **Penalties**

#### **Providing False Information or Filing More Than One Exemption Application In Any Property Tax Year:**

In addition to any penalties prescribed by law for perjury in the second degree, the applicant who knowingly provides false information on an exemption application or files more than one exemption application in any given year:

- 1) Shall not be entitled to an exemption; and
- 2) Shall be required to pay an amount equal to the amount of property taxes not paid as a result of the exemption being improperly allowed; and
- 3) Shall, upon conviction of perjury, be required to pay an additional amount equal to twice the amount of the property taxes that would have been exempted had the application been valid, plus interest. Interest will be calculated pursuant to 39-21-110.5(2) & (3), C.R.S., from the date the invalid application was filed until the date the applicant makes the payment.
- 4) The penalty described in numbers two and three above shall be deemed part of the lien of general taxes imposed on the person found responsible for its payment. It shall have the priority specified in 39-1-107(2), C.R.S.

#### **Failure to Inform the Assessor of any Change in Ownership or Occupancy within 60 Days:**

Within 60 days of its occurrence, the assessor must be notified of any change in the property's ownership or occupancy that would result in a loss of the exemption. If the assessor is not notified of the change, the following penalties will be imposed:

- 1) The exemption will not be allowed: and
- 2) The applicant or trustee will be required to pay an amount equal to the amount of property taxes not paid as a result of the exemption being improperly allowed plus interest. Interest will be calculated pursuant to 39-21-110.5(2) & (3), C.R.S., from the date on which the change in ownership or occupancy occurred until the date the applicant makes the payment.
- 3) The penalty described in number two shall be deemed part of the lien of general taxes imposed on the person found responsible for its payment. It shall have the priority specified in 39-1-107(2), C.R.S.

### **Reimbursement of Lost Revenue**

- 1) By April 3 of each year, county treasurers will send a report to the State Treasurer listing the amount of property tax revenue attributable to each local government that will not be collected due to the senior property tax exemption program.
  - 2) By April 15 of each year, the State Treasurer will reimburse each county treasurer for the lost revenue.
- County treasurers will distribute the reimbursed revenue to each governmental entity.

### **Questions**

The application form can be obtained from your county assessor at the following address.

Denver County Assessor  
201 West Colfax Ave., Department 406  
Denver, CO 80202

(You can also call your Denver County Assessor at (720) 913-4000 for additional information about the exemption, or contact the Colorado Division of Property Taxation at (303) 866-2371.)