

INTRODUCTION

An exemption is a privilege granted by the Legislature to certain classes of persons or property. An exemption reduces by certain amounts the tax owed.

Unlike an exemption which discharges a tax obligation, Clause 41A permits an elderly taxpayer to *delay payment* of property taxes which ultimately must be paid to the community upon the death of the taxpayer or sale of the property. By this statute which is in effect in every city and town in the Commonwealth, an elderly taxpayer can use resources which otherwise would go to pay real estate taxes to defray living expenses. A taxpayer who already receives a personal exemption (e.g. Cl. 41 Elderly Person, Cl 17 Surviving Spouse) is not precluded from seeking to defer the balance.

For eligibility, a qualified applicant must enter into a written tax deferral and recovery agreement with the community's assessors who must cause a lien on the property to be recorded at the Registry of Deeds. Joint owners, remaindermen and/or mortgagees must give prior written approval.

ELIGIBILITY REQUIREMENTS

An applicant must satisfy tests relating to age, domicile, ownership and occupancy, and gross receipts.

Age— An applicant must be at least 65 years of age as of July 1 of the tax year.

Domicile— An applicant must have had a domicile or legal home in Massachusetts for the preceding ten years. He must be domiciled as of July 1st in the property which is the subject of the application.

Ownership and Occupancy— An applicant must have owned and occupied the subject property or other real property in the Commonwealth as a domicile for at least 5 years.

The applicant may own the property jointly with his spouse or jointly or as a tenant in common with a person not his spouse.

A surviving spouse who qualifies may continue to defer taxes but must enter into a new tax deferral and recovery agreement. A surviving spouse who inherits the property must have occupied it or other real property in Massachusetts as a domicile for 5 years. Any additional taxes plus interest deferred by the surviving spouse together with the amounts previously deferred and unpaid may not exceed 50 percent of the surviving spouse's proportional share of the fair cash value of the property.

The holder of a life estate satisfies the ownership requirement for a tax deferral.

If the domicile is held in a trust, a person can only satisfy the ownership interest if he:

- 1 Is a trustee or co-trustee of that trust and
- 2 Possesses a sufficient beneficial interest in the domicile through that trust. (Splitting the interest between multiple trusts does not qualify).

Gross Receipts— An applicant's gross receipts from all sources cannot exceed \$40,000. If married, combined gross receipts cannot exceed \$40,000. Ordinary business expenses and losses may be deducted but not personal or family expenses

DEFERRAL AMOUNT

A taxpayer who qualifies may defer payment of all or a portion of the taxes each year at 8 percent interest, provided the deferred taxes and accrued interest do not exceed 50 percent of the applicant's proportional share of the fair cash value of the property.

