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Chapter 659 Deferral

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 county 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 CTAS website material.

Sincerely,

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Eligibility for Deferral . Pursuant to T.C.A. § 7-64-201, the legislative body of any county or municipality may provide by resolution that

1. any taxpayer or spouse who is 65 years of age or older who owns residential property that is the person's principal place of residence will pay taxes on that property as any other taxpayer, but taxes on the property in the amount that exceeds the person's property tax for the year 1979 may be deferred at the interest rate set forth in T.C.A. § 7-64-209, with the deferred taxes to remain a lien upon the property as provided by T.C.A. § 7-64-209;
2. any taxpayer who reaches 65 years of age on or before March 27, 1980, who owns residential property that is the person's principal place of residence will thereafter pay taxes on the property in the same amount as other taxpayers, but that any taxes in excess of the 1979 taxes may be deferred until the date of sale of the property or the date of death of the taxpayer, or the death of the surviving spouse, and that any taxpayer who reaches 65 years of age after March 27, 1980, may defer any taxes in excess of the amount in effect in the year the person becomes 65 years of age subject to the other provisions of T.C.A. § 7-64-201 *et seq*.; and
3. any taxpayer who is 65 years of age or older who purchases residential property as the person's principal place of residence after the person's 65th birthday may defer taxes in excess of the amount of tax in the year the person purchased the property subject to the provisions of T.C.A. § 7-64-201 *et seq*.[1]

The deferral benefits provided by T.C.A. § 7-64-201 *et seq*. also apply to totally and permanently disabled taxpayers, as defined by T.C.A. § 67-5-703, and disabled veterans as defined in T.C.A. § 67-5-704.[2]

Whenever the fair market value of the property is increased as the result of improvements to the property after March 27, 1980, the assessed value of the property will be adjusted to include the increased value, and the taxes will also be increased proportionally with the increased value. The increased value will not be subject to the benefits of the tax deferment.[3]

Claim by Surviving Spouse . In the event of the death of one spouse of a married couple who has qualified for deferral pursuant to the statute, if the surviving spouse is over 50 years of age, that spouse can continue to claim the deferral benefits subject to the tax lien already accumulated against the property.[4]

Limitation on Eligibility—Taxpayer Income . No taxpayer or taxpayers whose income exceeds $12,000 annually is eligible for the tax deferral.[5]The limitation of $12,000 on income from all sources applies to the combined income of both the husband and wife and/or all family members residing in the residence.[6]

Limitation on Value of Principal Residence . The limitation on the value of the principal place of residence is under $50,000 and shall be determined by the appraised fair market value as it appears on the records of the county assessor and not the reduced assessment.[7]In addition, the tax deferral applies only to the principal residence and no more than one acre of land.[8]

Application Process . Applications for the deferral of real property taxes is made annually, on or before March 1 of each year, unless a later date for applications is provided for by resolution of the legislative body of the county or municipality authorizing the program. Applications received by the county trustee or collector of municipal taxes after the appropriate date will be considered for deferral of real property taxes for the following tax year.[9] Application forms are prepared by the state Division of Property Assessments. Pursuant to the statute, a $6.00 application fee is imposed to defray the expenses of processing of the application. The fee must be paid when the application is submitted. The county trustee or municipal collector of taxes makes the final determination of eligibility of the applicant.[10]

Lien for Unpaid Taxes—Interest . In the event of a sale of the property, the deferred taxes are not subject to penalty as provided for delinquent taxes but are subject to interest at the rate of 10 percent per annum. The accrued taxes and interest at 10 percent per annum remain a first lien on the property in favor of the local government involved until paid and are not subject to the statutes of limitations.[11]The tax deferrals created pursuant to T.C.A. § 7-64-201 *et seq*. are not subject to penalties as provided in

Tennessee statutes for delinquent taxes.[12]

Termination of Deferral . The deferred payments become due and payable at the time of sale of the residence and at the time of the death of the beneficiary. In addition, the deferred payments become due and payable in the event of a change of use of the property from the principal place of residence of the beneficiary or beneficiaries.[13]

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[1] T.C.A. § 7-64-201(a).
[2] T.C.A. § 7-64-211.
[3] T.C.A. § 7-64-201(b).
[4] T.C.A. § 7-64-205.
[5] T.C.A. § 7-64-202.
[6] T.C.A. § 7-64-203.
[7] T.C.A. § 7-64-206.
[8] T.C.A. § 7-64-201(c).
[9] T.C.A. § 7-64-212.
[10] T.C.A. § 7-64-207(a) - (c).
[11] T.C.A. § 7-64-209.
[12] T.C.A. § 7-64-204.
[13] T.C.A. § 7-64-210.
