

PROPERTY TAX FREEZE ACT

Public Chapter 581 Senate Bill 0002 (Norris) House Bill 1033 (DeBerry J)

The General Assembly passed the “Property Tax Freeze Act” in June of this year, which will be codified in T.C.A. § 67-5-705. The Act allows the legislative body of any county or municipality to adopt by resolution or ordinance the property tax freeze program established in the Act. The new law does not apply to Special School Districts.

This Spotlight sets out the requirements of the property tax freeze program. The new law takes effect July 1, 2007, and applies to tax years beginning on and after January 1, 2008. **Because the property tax freeze program must by law conform to the program rules, the program cannot be adopted until the rules are promulgated. It is our understanding that the rules will not be promulgated until sometime after October of 2007.**

CTAS advises counties not to rush into adopting the property tax freeze program before taking into account the administrative costs for implementation and administration of the program, including but not limited to the cost of necessary revisions or additions to computer software programs for tax billing systems, tax appraisal systems, and tax freeze application systems; the number and cost of new employees that may be required in county offices in order to implement and administer the program; and any new office space that may be required.

PURPOSE

The purpose of the Act is to provide for the uniform and orderly administration of the property tax freeze program for eligible taxpayers in those jurisdictions adopting the program. T.C.A. § 67-5-705(b).

NOT INTENDED TO DISPLACE OTHER FORMS OF PROPERTY TAX RELIEF

The Act specifies that the property tax freeze program is not intended to displace other forms of property tax relief available under existing statutes. T.C.A. § 67-5-705(b).

PROGRAM RULES

The property tax freeze program shall conform to any uniform definitions, application forms and requirements, income verification procedures and other necessary or desirable rules, regulations, policies and procedures, not in conflict with T.C.A. § 67-5-705, as may be adopted by the State Board of Equalization through the Division of Property Assessments. T.C.A. § 67-5-705(h).

STATUTORY DEFINITIONS

Principal Residence

“Principal residence” is defined as the dwelling owned by the taxpayer and eligible as the taxpayer’s legal residence for voting purposes. T.C.A. § 67-5-705(c)(4).

Under the provisions of the Act, the property tax freeze granted by this section shall only apply to the principal residence and no more than the maximum limit for land established by the program rules. The Act specifies that the program rules shall establish the maximum size limits for land which may qualify as a taxpayer’s principal residence. The rules shall take into consideration lot size requirements under applicable zoning as well as property actually used to support residential structures; provided, however, such size limit shall not exceed five (5) acres. T.C.A. § 67-5-705(c)(4). (NOTE: The program rules have not yet been promulgated.)

Base Tax

“Base tax” is defined as the property tax due on the principal residence of a qualifying taxpayer at the time the jurisdiction levying the tax adopts a resolution or ordinance approving the property tax freeze program. If the taxpayer did not qualify or did not own an eligible residence when the freeze was adopted, “base tax” means the maximum property tax due on the taxpayer’s eligible residence for the year in which the taxpayer became eligible on the basis of an approved application. If a taxpayer reapplies after acquiring a new residence or after a period of ineligibility, the base tax shall be recalculated for the year of reapplication and reestablishment of eligibility. T.C.A. § 67-5-705(c)(1).

Improvement

“Improvement” is defined as any change to a dwelling or dwelling lot that would properly warrant a change by the assessor in the assessed value of the property for the year or portion of the year in which the improvement is made. T.C.A. § 67-5-705(c)(3).

LOCAL ADOPTION OF THE PROGRAM

The Act provides that the legislative body of any county or municipality may by resolution or ordinance adopt the property tax freeze program. The county or municipality may thereafter terminate the tax freeze program by resolution or ordinance provided, however, such resolution or ordinance terminating the program shall not have the effect of terminating the program until the following tax year. T.C.A. § 67-5-705(d).

APPLYING FOR THE PROGRAM

The Act specifies that the county trustee is the collecting official, or in the case of taxes due a municipality, the county trustee or other official responsible for the collection of property taxes. T.C.A. § 67-5-705(c)(2).

Taxpayers seeking the property tax freeze must apply annually to the collecting official by the deadline established in the program rules. Applicants must qualify on the basis of age, income and ownership of eligible property. T.C.A. § 67-5-705(e)(1). **(NOTE: The program rules have not yet been promulgated.)**

The collecting official determines whether the requirements for eligibility have been met. The collecting official's determination is final, subject to audit and recovery of taxes, including penalty and interest at the rates otherwise provided for delinquent taxes under T.C.A. § 67-5-2010, if the applicant is later determined to have not been eligible. T.C.A. § 67-5-705(e)(1).

Any taxpayer, who knowingly provides false information concerning the taxpayer's income or other information relative to eligibility for the property tax freeze program, commits a Class A misdemeanor. T.C.A. § 67-5-705(e)(1).

QUALIFYING FOR THE PROGRAM

Age

To qualify for the property tax freeze, the applicant must be sixty-five (65) years of age by the end of the year in which the application is filed.

Ownership

The applicant must further own and use the property as the applicant's principal residence for which the tax freeze is sought in the year of application or reapplication and through the deadline date for application or reapplication. T.C.A. § 67-5-705(f)(1).

Income

In addition to the qualifications stated above, the applicant's income, combined with the income of any other owners of the property, and the income of any owners of a remainder interest in the property who used the property as their principal place of residence at any time during the year may not exceed the statutory income limit. Income for purposes of qualification means income from all sources as defined by the program rules. T.C.A. § 67-5-705(f)(2).

The income limit for the property tax freeze program shall be the greater of weighted average of the median household income for age groups sixty-five (65) to seventy-four (74) and seventy-five (75) or over who resided within the county as determined in the most recent federal decennial census, or the applicable state tax relief income limit established under T.C.A. § 67-5-702. This limit shall be adjusted by the Comptroller of the Treasury to reflect the cost of living adjustment for social security recipients as determined by the social security administration and shall be rounded to the nearest ten dollars (\$10.00). The adjusted weighted average median household income level for each county shall be published annually by the Comptroller of the Treasury. T.C.A. § 67-5-705(f)(3).

INCOME VERIFICATION

The Comptroller of the Treasury is authorized to perform income verification or other related services or assistance at the request of a county or municipality if the county or municipality agrees to pay fees sufficient to reimburse the actual costs of the comptroller in providing such services or assistance, unless or to the extent not appropriated by the General Assembly. T.C.A. § 67-5-705(g)(1). (NOTE: These fees have not yet been established.)

Financial records filed for purposes of income verification shall be confidential and shall not be subject to inspection under the Tennessee public records act, but shall be available to local or state officials who administer or enforce the provisions of this section or requirements imposed pursuant thereto. T.C.A. § 67-5-705(g)(2).

TAXES DUE

If the collecting official approves the taxpayer's application, the property taxes due upon the applicant's principal residence shall be the lesser of:

(1) The actual tax due; or

(2) The base tax, provided the base tax shall be adjusted to reflect any percentage increase in the value of the property determined by the assessor to be attributed to improvements made or discovered after the time the base tax was established.

T.C.A. § 67-5-705(e)(2).

CTAS MODEL RESOLUTION

While a county cannot adopt a tax freeze program until the rules have been promulgated, the county can form a committee to begin studying the financial and administrative impact of such a program. CTAS has developed a sample resolution for this purpose. Contact your CTAS County Government Consultant for a copy of this resolution.