

# ***GUIDELINES FOR ADMINISTERING THE HOMESTEAD EXEMPTION***



***COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF REVENUE  
OFFICE OF PROPERTY VALUATION***

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## I. INTRODUCTION

While administering the homestead exemption is straightforward in many cases, property valuation administrators (PVAs) will encounter situations where it is not clear if a homestead exemption should be granted. This manual will provide PVAs with the current legal provisions governing the homestead exemption – both in the Constitution and in statute – and guidelines on the administration of the exemption. Additionally, various examples of unusual situations that have actually occurred are presented along with a discussion of the issues which leads to the proper course of action to be followed.

## II. THE LAW

The homestead exemption is governed by Section 170 of Kentucky's Constitution. The specific constitutional language is as follows:

...real property maintained as the permanent residence of the owner, who is sixty-five years of age or older, or is classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky, provided the property owner received disability payments pursuant to such disability classification for the entirety of the particular taxation period, and has filed with the appropriate local assessor by December 31 of the taxation period, on forms provided therefore, a signed statement indicating continuing disability as provided herein made under penalty of perjury, up to the assessed valuation of sixty-five hundred dollars on said residence and contiguous real property, except for assessment for special benefits. The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially, in excess of ninety-eight years. The exemptions shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

The homestead exemption authorized under Section 170 is administered through the procedures provided in KRS 132.810. This statute also provides for adjusting the exemption amount every two years to reflect the increase in the cost of living and it addresses other administrative functions associated with granting a homestead exemption. The statute reads as follows:

### **132.810 Homestead exemption -- Application -- Qualification.**

- (1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the department. The assessed value of

property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

- (2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.
- (b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.
- (c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period.
- (d)
  1. Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis, except as provided by subparagraph 2. of this paragraph.
  2.
    - a. A service-connected totally disabled veteran of the United States Armed Forces; or
    - b. A totally and permanently disabled individual found disabled under:
      - i. The applicable rules of the Social Security Administration;
      - ii. The applicable rules of the Kentucky Retirement Systems; or
      - iii. Any other provision of the Kentucky Revised Statutes;shall document the disability at the time of application for the homestead exemption and shall not be required to apply for the homestead exemption on an annual basis.
- (e)
  1. Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit.

2. The sixty-five hundred dollars (\$6,500) exemption provided in Section 170 of the Constitution of Kentucky shall be construed to mean sixty-five hundred dollars (\$6,500) in terms of the purchasing power of the dollar in 1972.
3. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.
  - (f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.
  - (g) A mobile home, recreational vehicle, when classified as real property as provided for in KRS 132.751, or a manufactured house shall qualify as a residential unit for purposes of the homestead exemption provision.
  - (h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.
- (3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city, or special district purposes.
- (4)
  - (a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification at the end of the taxation period for which the homestead exemption has been granted. In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.
  - (b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.
  - (c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case

may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

- (d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.
- (5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death

### III. HISTORY OF THE HOMESTEAD EXEMPTION

As stated in the Constitution, the amount of the homestead exemption was originally set at \$6,500. When the exemption provisions were set out in the statutes, a section was included which authorizes the exemption amount to be increased every two years to reflect the increase in the cost of living index used by the United States Department of Labor. This adjustment is made by the Office of Property Valuation in every odd numbered assessment year. The exemption amount for the past several years is as follows:

2009-2010	33,700
2011-2012	34,000
2013-2014	36,000
2015-2016	36,900
2017-2018	37,600
2019-2020	39,300
2021-2022	40,500
2023-2024	46,350

### IV. BASIC PROVISIONS OF THE HOMESTEAD EXEMPTION

A taxpayer who is at least sixty-five years of age is eligible for a homestead exemption for property that is owned and maintained as his or her permanent residence. Taxpayers who are younger than sixty-five may also receive an exemption if they meet all of the following requirements:

- 1) The taxpayer must both own and maintain the property as his or her permanent residence;
- 2) The taxpayer must have been classified as totally disabled under a program authorized or administered by the Federal Government or by any other retirement system - it does not matter if the retirement system is located in Kentucky or outside the state - on January 1 for the year in which the application is made and maintain the disability classification through December 31; and

- 3) The taxpayer must be receiving disability payments pursuant to that disability classification.

If the applicant is a service-connected totally disabled veteran of the United States Armed Forces or if the applicant has been found to be totally disabled under the applicable rules of the Social Security Administration, the Kentucky Retirement Systems, or any other provision of the Kentucky Revised Statutes, all documentation supporting the disability exemption must be provided at the time of the initial application, but the applicant does not have to reapply for the exemption annually thereafter. Applicants classified as totally disabled under private plans or through another State's plan must continue to file for the disability exemption by December 31 of each year in the PVA office.

The most common Federal program by which a taxpayer will obtain a totally disabled classification is Social Security/SSI. Other Federal programs that may be encountered include those administered by the Veterans Administration and the Tennessee Valley Authority. A common non-Federal program that you will encounter that qualifies a taxpayer for a disability exemption is the Teachers' Retirement System. However, remember that disability payments from any type of retirement system - both publicly and privately sponsored - will qualify the taxpayer for the exemption.

A common misconception is that the exemption will totally eliminate the property tax liability for a senior citizen or totally disabled property owner. If the assessed value of the property in question exceeds the homestead exemption amount, property taxes will be due on the assessment remaining after deducting the exemption amount. This is illustrated in the following example:

2023 Assessed Value of Property	85,000
2023 Homestead Exemption	46,350
Balance Upon Which Property Taxes Will Be Due	38,650

## V. APPLICATION PROCESS

An initial application form must be completed by all taxpayers desiring to receive a homestead exemption. Revenue Form 62A350 is provided for this purpose. For taxpayers who are at least sixty-five years of age, the application must be accompanied by documentation which verifies their age. Examples of acceptable documentation include:

Medicare cards issued by Social Security;  
Birth certificates; and  
School records.



The back of the application form details a more complete list of primary and secondary sources for verifying the applicant's age. Upon approval of a homestead exemption based on age, it is not necessary to obtain another application form from the taxpayer.

The same form can be used by taxpayers applying for a disability homestead exemption for the first time. The initial application must be accompanied by documentation which shows the taxpayer meets all of the requirements mandated by the law. These requirements are listed on pages 4 and 5 of this manual.

If the applicant is a service-connected totally disabled veteran of the United States Armed Forces or if the applicant has been found to be totally disabled under the applicable rules of the Social Security Administration, the Kentucky Retirement Systems, or any other provision of the Kentucky Revised Statutes, the applicant does not have to reapply for the exemption annually thereafter. For those applicants from whom an annual application is required, PVA offices can utilize a wide variety of practices in order to meet this requirement. **At a minimum**, a signed affidavit stating the property owner continues to be classified as totally disabled and has received payments pursuant to the disability for the entire year must be filed each year by December 31. A copy of the affidavit must be kept on file in the PVA office. An example of an affidavit is provided in the appendix to this manual.

## VI. REFUNDS AND EXONERATIONS ASSOCIATED WITH THE HOMESTEAD EXEMPTION

Although, for administrative purposes, it is necessary to require a taxpayer to complete an application in order to receive a homestead exemption, the failure to apply for an exemption does not preclude a taxpayer from receiving a homestead exemption based on age. When it is discovered that a taxpayer would have been entitled to a homestead exemption because he or she turned sixty-five years old in a prior year, a refund of the prior year's taxes paid can be made. It is important to keep in mind that refunds are limited by KRS 134.590 to payments made within two (2) years of the date of the refund application.

In addition, if the prior year's tax bills were delinquent and the taxpayer should have received an exemption, exonerations can be prepared which will effectively reduce or eliminate the taxpayer's delinquent liability. Unlike refunds, there is no two-year limitation on exonerating delinquencies. Therefore, if a seventy year-old taxpayer has just applied for the exemption and the tax bills for the previous five years are delinquent, exonerations can be made for all five years.

It is important to note that refunds and exonerations cannot be done when the taxpayer is applying for a disability homestead exemption and it is discovered the exemption could have been granted in a prior year had an application been made. Since the Constitutional requirements for the disability exemption require an application to be filed by December 31 of the taxation period, a disability

exemption generally cannot be granted on a retroactive basis. However, see situation #20 listed in the next section of this manual.

## VII. UNUSUAL SITUATIONS INVOLVING THE HOMESTEAD EXEMPTION

As stated earlier in this handbook, most of the time it will be a straightforward process when determining whether or not an applicant is entitled to receive a homestead exemption. However, on occasion, unusual situations will be encountered where it may be unclear if the taxpayer qualifies for the exemption. This section examines several homestead exemption application cases that had unusual fact patterns and provides an explanation of the decisions reached.

### **Situation #1**

#### Circumstances

A taxpayer has applied for and been granted a homestead exemption in a prior year. During the current year, the taxpayer is forced by health problems to enter a nursing home. The residence owned by the taxpayer remains vacant. Should the property owner continue to receive the exemption?

#### Decision and Discussion

As long as the property is considered the permanent residence of the taxpayer, the taxpayer will continue to be entitled to the exemption. As a general rule, if the property is not being rented, it is the Office of Property Valuation's position that the property can continue to be considered the permanent residence of the taxpayer on the presumption that the owner intends to return once his or her health improves. Therefore, a homestead exemption can continue to be granted.

If the property is being rented, then it cannot be considered to be the taxpayer's residence. When this is the case, the exemption must be rescinded.

### **Situation #2**

#### Circumstances

A minor child is classified by a Federal program (SSI) as totally disabled, and disability payments are being received. If this child is listed as the owner of the property in question and the property serves as the child's permanent residence, can a disability exemption be granted?

## Decision and Discussion

Since all of the legal requirements are met, it is the Office of Property Valuation's position that a disability exemption can be granted in this situation.

### **Situation #3**

#### Circumstances

A property owner who is eligible to receive a regular homestead or disability exemption lives part-time in your county and part-time in another county. How do you determine which property's assessment should receive an exemption?

#### Decision and Discussion

An individual owning two or more residences can receive the exemption on only one home. To determine which property should have the exemption, the following information should be evaluated:

Where are the property owners' motor vehicles registered?;

Where is the property owner registered to vote?; and

How much time does the owner spend at each residence?

KRS 116.035 sets forth the requirements for determining a voter's residence:

- (1) A voter's residence shall be deemed to be at the place where his habitation is, and to which, when absent, he or she has the intention of returning;
- (2) A voter shall not lose his or her residence by absence for temporary purposes merely; nor shall he or she obtain a residence by being in a county or precinct for such temporary purposes, without the intention of making that county or precinct his or her home;
- (3) A voter shall lose his or her residence by removal to another state or county with intention to make his or her permanent residence there, or by removal to and residence in another state, with intention to reside there an indefinite time, or by voting there, even though he or she may have had the intention to return to this state at some future period;
- (4) The place where the family of a married person resides shall generally be considered his or her residence, unless the family so

resides for a temporary purpose. If his family is permanently in one (1) place, and he or she transacts his business in another, the former shall be the residence.

#### **Situation #4**

##### Circumstances

An individual who would otherwise qualify for an exemption owns a home in your county; but, he or she also owns a home out-of-state. How do you determine if the home in Kentucky should receive an exemption?

##### Decision and Discussion

To evaluate this type of situation, information similar to that listed in Situation #3 should be obtained and reviewed. In addition, for this situation you should also find out what type of state income tax return the property owner files in Kentucky, (i.e. part-year resident, non-resident or a regular return). KRS 141.010(25) – an income taxation statute – defines “resident” as an individual domiciled within this state or an individual who is not domiciled within this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state. Finally, it should be determined if the property owner is receiving a homestead exemption in another state, and, if so, what the other state’s laws or constitution require in order to qualify for that state’s homestead exemption. If the other state’s law or constitution requires that the home be the person’s permanent residence, then that individual could not also qualify for a homestead exemption in Kentucky. All of this information should allow a proper determination to be reached on whether or not to grant this exemption.

#### **Situation #5**

##### Circumstances

A husband and wife are both over 65 years old. The couple is separated, but not legally divorced. However, it can be established that each of them owns and maintains a separate residence. Would both of the residences be eligible to receive an exemption? What if the residences were jointly owned by the separated couple?

##### Decision and Discussion

If a separated husband and wife can establish that each of them owns and maintains a separate permanent residence they will both be entitled to the exemption. If the two properties are owned jointly by the couple they are still entitled to two exemptions so long as they can establish that each of them maintains a separate residence.

## **Situation #6**

### **Circumstances**

A property owner qualifies to receive a homestead exemption. However, he only owns a ½ fractional interest in the property. How should the exemption be applied in this instance?

### **Decision and Discussion**

The exemption can only be applied against the property's assessment in an amount that is equal to the lesser of the actual exemption amount or the owner's ½ interest. For example, if the property's assessed value is \$40,000, the owner entitled to the exemption has an interest valued at \$20,000. Since this is less than the exemption amount, the exemption is limited to \$20,000. If the assessment of the property is \$100,000, the full exemption amount of \$40,500 can be applied since the exemption amount would be less than a ½ interest in the property.

The same guidelines would apply for other types of fractional interests.

## **Situation #7**

### **Circumstances**

If a person who would otherwise qualify for a homestead or disability exemption is purchasing property on an installment land sale contract, can the exemption be granted?

### **Decision and Discussion**

An exemption can be granted in this situation. Section 170 of the Kentucky Constitution allows the exemption for real property held by legal or equitable title. Ownership by land contract is ownership by equitable title.

## **Situation #8**

### **Circumstances**

The property where a husband and wife reside is listed in the wife's name only on the deed. If the husband otherwise meets the requirements to receive a homestead or disability exemption can the exemption be granted?

## Decision and Discussion

An exemption should **not** be granted in this situation. While the husband may have a dower interest in the residence, under KRS 392.020 this interest comes to fruition only upon the death of the wife. Therefore, the exemption cannot be granted.

## **Situation #9**

### Circumstances

A property owner who is receiving a homestead or disability exemption sells the home that was owned on January 1 and purchases another home. How should the exemption be handled for that year?

### Decision and Discussion

Since KRS 132.220 mandates that all real property is to be assessed as of January 1 each year, the exemption granted to the property owner in this situation should remain with the property owned on January 1. This is true for an exemption based on age as well as the exemption based on disability. But, the disabled recipient must continue to meet the classification requirement and be receiving payments throughout the year. The following year, the exemption should be transferred to the newly purchased property.

## **Situation #10**

### Circumstances

A property owner receiving the homestead exemption passes away during the year. Should the homestead exemption be applied to the property's assessment for that year? What if the property owner had been receiving a disability exemption?

### Decision and Discussion

In accordance with KRS 132.810, the homestead exemption, whether based upon age or total disability, should be applied to the property's assessment in the year the owner passes away. The exemption must be removed from the property the following year.

### **Situation #11**

#### **Circumstances**

A property owner receiving a homestead exemption deeds her property to her child; but retains a life estate in that property. Should the exemption continue to be applied to this property?

#### **Decision and Discussion**

Section 170 of the Constitution and KRS 132.810 do not define the term “owner”. The Kentucky Attorney General has concluded that the word “owner” may include interests less than fee simple absolute and would include a legal title in which the holder has the present right to possess, control, or enjoy the benefits of the land in question. Therefore, the homestead exemption can continue to be granted in this situation.

### **Situation #12**

#### **Circumstances**

A property owner has been ruled to be totally disabled by Social Security. However, no disability payments are received, since he did not work long enough to collect Social Security benefits. Can a disability exemption be granted?

#### **Decision and Discussion**

No exemption can be granted in this situation. Even though the property owner has been declared totally disabled, the Kentucky Constitution clearly requires the property owner to also receive payments pursuant to the disability classification.

### **Situation #13**

#### **Circumstances**

A property owner who otherwise qualifies to receive a homestead exemption has not recorded the deed to the property being used as her personal residence. Should the exemption be granted?

#### **Decision and Discussion**

In Kentucky, there is no legal requirement that a deed be recorded to be legally valid. If the deed has been fully executed and delivered, it does not need to be recorded to pass title. Therefore, as long as the taxpayer can show that she is the legal owner of the property, the exemption can be granted.

### **Situation #14**

#### **Circumstances**

A property owner has been classified as totally disabled by the Social Security Administration. However, the payments received pursuant to the disability are being received from a State agency. Should this property owner receive a disability exemption?

#### **Decision and Discussion**

The property owner in this situation would be entitled to receive a disability exemption. The Constitution requires that a property owner be classified as totally disabled by a Federal agency or any other retirement system and that the taxpayer receive disability payments pursuant to that classification. Therefore, it does not matter if one agency rules the applicant to be totally disabled and another agency makes the payments.

### **Situation #15**

#### **Circumstances**

A property owner has been declared totally disabled by the Social Security Administration and otherwise qualifies to receive a disability exemption. However, it is the Social Security Administration's policy that the property owner must be disabled for five full consecutive months before they are entitled to receive disability payments. In this particular property owner's situation he was classified as totally disabled on October 31, but his payments will not begin until April of the following year. Should this property owner be entitled to receive a disability exemption in the year his payments begin in April?

#### **Decision and Discussion**

An exemption can be granted for this situation as long as the property owner can prove that his disability classification was in effect on January 1. It should be noted that this type of situation has the chance to occur only during the first year a property owner qualifies for the disability exemption.

### **Situation #16**

#### **Circumstances**

A property owner over the age of sixty-five rents an apartment in one county. She is registered to vote in that county and she has obtained her driver's license in that county. However, she owns property in another county and resides there throughout the summer and on weekends during the remainder of the year. The utilities are never discontinued and the property owner claims that this house



is maintained as a permanent residence. Would this property owner be entitled to a homestead exemption?

### Decision and Discussion

This situation is no different from any other problem concerning residence. In the above situation, the taxpayer does not meet the “permanent residence” requirement. She is registered to vote in the county in which she rents, registers her vehicle in that county, and presumably files her income tax from that location. These acts demonstrate an intent to consider the county where she rents to be her permanent residence. Under these circumstances, she does not qualify for the exemption.

### **Situation #17**

#### Circumstances

A property owner has received a homestead exemption and his property’s assessment is totally offset by the exemption amount. However, he has property subject to a fire acres tax of three cents per acre. Should the exemption cover this amount as well? What about similar amounts levied on properties in watershed districts? Are fire district subscriber fees and 911 fees covered by a homestead exemption?

### Decision and Discussion

Section 170 of the Constitution creates an exception to the homestead exemption for assessments for special benefits. KRS 132.010(15) defines special benefits as those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property. Case law defines special benefits as those which increase the value of the land, or relieve it from a burden, or make it especially adapted to a purpose which enhances the value.

In the case of the fire acres tax, the taxpayer should be required to pay the three cent tax. KRS 149.520 established a statewide system for fire prevention. This system requires counties that receive state forest fire protection to annually pay a three cent per acre assessment on land designated as timberland. The three cent per acre tax goes into a special county forest fire protection fund. Under this system, owners of qualified land receive additional fire protection services. These services are the type which increase the value of the land by providing additional benefits to the respective owners.

The watershed district question must be answered by examining the funding mechanism for the particular district. These districts are funded in two distinct formats. First, watershed districts that are funded directly by the fiscal court would fall under general benefits which are not taxable. General benefits come from a fund maintained by the whole community. Second, the districts that

raise their own revenue through the establishment of a separate taxing district would fall into the special benefit language of Section 170. This money would come directly from taxpayers enjoying the special benefit and not from a general tax fund which would meet the definition of “special benefits” found in KRS 132.010(15).

The addition of fire district subscriber fees and 911 fees on property tax bills has become more common in recent years. Both of these fees are a standard amount that is set by the local government and have no relationship to the assessed value of the property and the tax rates applied to the assessment. These fees would be considered to be special benefits. Therefore, they are not covered by any homestead exemption that is granted to the property owner.

### **Situation #18**

#### Circumstances

A couple receiving a homestead exemption transfers their property into a revocable trust. The couple is listed as the trustees of the trust and are also the beneficiaries of the trust. Should the homestead exemption continue to be applied to this property’s assessment? What if the trust was irrevocable in nature?

#### Decision and Discussion

The couple transferring their property into a revocable trust would not lose their right to the homestead exemption provided they have the right to occupy and possess the property as their permanent residence during their lifetimes and they are in fact doing so. There is no language in Section 170 that requires the person seeking a homestead exemption to own an estate in fee simple absolute to qualify, and the Constitutional language expressly allows for the holding of equitable title (i.e., in trust) to qualify. The trust document must be examined to see what legally enforceable rights the beneficiaries i.e., the trust makers have.

If the trust is irrevocable in nature, the legal and equitable title to the real property has been transferred to the trust and this cannot be reversed. Under the terms of this type of trust, the original property owners typically relinquish their ownership rights to the real property and when this is the case, no homestead exemption can continue to be granted. However, several PVAs are beginning to see the use of “personal residence” trusts. This is an irrevocable trust where the property (residence) has been irrevocably transferred to the trust, but an exclusive rent free use arrangement of the residential property is retained for the lifetime of the owners. If all expenses related to the residence – including mortgage payments, insurance and property taxes – continue to be the responsibility of the original owners, then a homestead exemption can be granted in these situations.

Please do not hesitate to contact the Office of Property Valuation whenever you have questions about whether or not a homestead exemption can be granted when a trust is involved. Each situation can be different and the specific language of the trust document must be examined carefully to see what legally enforceable rights are retained by the property owners.

### **Situation #19**

#### **Circumstances**

The owner of a permanent residence otherwise qualifies for the homestead exemption; but does not own the land upon which the improvement rests. Can a homestead exemption be applied against the assessment of the improvement?

#### **Decision and Discussion**

In Opinion of the Attorney General (OAG) 81-422 this situation was addressed. In this opinion it was determined that an exemption for the improvements could be allowed as long as the person seeking the exemption could establish that the property was used as his or her permanent residence. Keep in mind that no part of the exemption can be applied towards the assessment of the land.

### **Situation #20**

#### **Circumstances**

A taxpayer has applied for a disability exemption but has not yet been declared totally disabled because his claim is in litigation. What procedures should be followed by both the taxpayer and the PVA?

#### **Decision and Discussion**

The taxpayer may file for the exemption with the PVA, but must establish that a disability claim has been made with a federal agency or any other retirement system, and a determination is pending. If the determination period lasts longer than one year, the taxpayer should again apply for the disability exemption to protect his or her right to receive the exemption if the ruling is favorable to the taxpayer. If the claim is ultimately upheld, a retroactive award of payments by the agency or retirement system will qualify the taxpayer for the disability exemption on a retroactive basis so long as he or she is awarded payments for the entire year. A refund of taxes to the taxpayer would have to be made in accordance with the two year limitations period in KRS 134.590. The taxpayer should apply for the refund of these taxes as he or she pays them. This represents the only circumstance under which a disability exemption can be granted on a retroactive basis.

## **Situation #21**

### Circumstances

A taxpayer turns sixty-five during the year and she owns property that is used as her personal residence as of January 1. Before she can make application for the homestead exemption, the taxpayer passes away. Can the executor of the estate file for the homestead exemption on behalf of the deceased taxpayer?

### Decision and Discussion

Yes. A homestead exemption in this particular situation should be granted since the property in question was being maintained as the personal residence of a taxpayer who would have qualified for the exemption as of the assessment date. The property would not qualify for the exemption the following year unless the property is owned and maintained as a permanent residence by a subsequent owner who meets the exemption requirements.

## **Situation #22**

### Circumstances

A property owner has been classified less than 100% disabled by the Department of Veterans Affairs. Can this homeowner be considered “totally disabled” so that a disability homestead exemption can be applied?

**NOTE:** A veteran who has been given a combined service-connected evaluation of 100% and considered totally and permanently disabled due to their service-connected disabilities, qualifies for a disability homestead exemption.

### Decision and Discussion

According to information received from the Department of Veterans Affairs, an individual is considered permanently and totally disabled if an evaluation rating of at least 70% disabled has been assigned. Additionally, the award letter states they have been granted “Individual Unemployability” status. Therefore, an applicant with this type of documentation can be granted a disability homestead exemption.

For evaluation ratings less than 100%, no exemption can be granted by the property valuation administrator if the “Individual Unemployability” designation is not included in the award letter.

An example of a letter issued by the Department of Veterans Affairs is included in the appendix to this manual.

### **Situation #23**

#### **Circumstances**

A property owner who otherwise qualifies for a homestead exemption is currently serving time in jail. Can the property owned by this applicant receive the exemption?

#### **Decision and Discussion**

It is the Office of Property Valuation's position that a property owner who is serving time in jail cannot be considered to be maintaining the property as their permanent residence during their incarceration. The homestead exemption can be granted as of the January 1st assessment date following the property owner's release from jail.

### **Situation #24**

#### **Circumstances**

A property owner has transferred ownership of her residence into a legal liability company (LLC). The property owner would have otherwise qualified for a homestead exemption and has now applied for the exemption in your office. Can an exemption be granted in this situation?

#### **Decision and Discussion**

The constitutional language authorizing the homestead exemption contained in Section 170 details how the ownership requirement can be met. Although indirect ownership is allowed, that type of ownership can only be secured by stock ownership or membership in a corporation. Previous court cases have ruled that LLCs are not corporations; therefore, no homestead exemption can be granted in this instance.

### **Situation #25**

#### **Circumstances**

The PVA processed a deed where a life estate was not retained by the original owner who was otherwise eligible for a homestead exemption and the exemption was properly removed. The PVA was later contacted by an attorney who stated the deed was in error and a "deed of correction" - which included the retention of a life estate - was filed. Is the PVA now able to reinstate the homestead exemption for the time it was lost?

## Decision and Discussion

Yes the exemption can be restored for the property owner in this case. When a deed of correction is filed, the effective date of the corrected deed is as of the date of the original filing. This will allow any homestead exemption lost in this manner to be restored. If a property tax bill was paid during the time it took to get the deed corrected, then a refund can be authorized – assuming the two year statute of limitations has not expired.



# APPENDIX





**APPLICATION FOR EXEMPTION  
UNDER THE HOMESTEAD/DISABILITY AMENDMENT**



Please print or type all requested information.

County \_\_\_\_\_ Date Submitted \_\_\_\_\_

Application is hereby made for the homestead exemption provided by Section 170 of the Kentucky Constitution.

1. Name(s) of owner-applicant(s) in whose name(s) title is vested: \_\_\_\_\_  
\_\_\_\_\_

2. Name of applicant(s)	Date of birth	Age	Sex	Relationship to other occupants
_____	_____	____	___	<input type="checkbox"/> Husband <input type="checkbox"/> Wife <input type="checkbox"/> Other _____
_____	_____	____	___	<input type="checkbox"/> Husband <input type="checkbox"/> Wife <input type="checkbox"/> Other _____
_____	_____	____	___	<input type="checkbox"/> Husband <input type="checkbox"/> Wife <input type="checkbox"/> Other _____

3. Address of personal residence \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Description \_\_\_\_\_

Mailing address (if different from above) \_\_\_\_\_

Phone Number \_\_\_\_\_ Date of Ownership \_\_\_\_\_

4. Have you applied for, or are you receiving, the homestead exemption in a different location, county, or state?  
 yes  no If "yes", where? \_\_\_\_\_

5. Type of residential unit:  single family residence  duplex  apartment building  mobile home  condominium  
 other (describe) \_\_\_\_\_

6. Type of ownership:  fee simple  equitable title  jointly with survivorship  jointly in common  by stock  
ownership or membership representing the owner's or member's proprietary interest in a multi-family structure

**Note:** Amount of exemption: If ownership is fee simple, equitable title, jointly with survivorship or jointly in common, applicant receives full exemption or up to the assessed value of his interest in the property, whichever is less. If ownership is by stock ownership or membership, the amount of exemption is full exemption or the percentage that the applicant's ownership bears to the total value of the property. (Example: Total value of the structure = \$50,000; applicant's stock ownership = 10%; exemption limit = \$5,000.)

**AFFIDAVIT AND OATH**

I, \_\_\_\_\_, hereby swear (affirm) under penalty of perjury that I (we) am (are) the owner(s) of the property for which this assessment exemption is sought and that I (we) do not or will not claim an exemption for any other property in this Commonwealth or another state. I further swear (affirm) that I (we) maintain this residential unit as my (our) primary residence; that I (we) am (are) 65 years of age or over, or totally disabled; and that all information contained in this application is true and correct.

If qualifying under the disability provision under KRS 132.810(2), I do further swear (affirm) under penalty of perjury that my disability is continuing and that if my disability status changes and benefits are no longer received I shall report such changes to the property valuation administrator's office as required by KRS 132.810(4)(b). Failure to do so could result in supplemental bills being issued for the amount of the exemption received for up to a period of five years.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Spouse

\_\_\_\_\_  
Date

**RESERVED FOR OFFICIAL USE**

This application is  approved  disapproved.

Map Number \_\_\_\_\_

Account Number \_\_\_\_\_

\_\_\_\_\_  
Property Valuation Administrator

\_\_\_\_\_  
Date

(See Explanation on Reverse)

## EXPLANATION

1. This application-affidavit must be submitted by December 31st of the year in which exemption is sought to the property valuation administrator of the county in which the residential unit is located. In addition, the applicant must own, occupy and maintain the subject property as a taxable interest as of January 1 during the tax year for which the exemption is sought (in accordance with KRS 132.220(1)).

2. What does *homestead exemption* mean?

The homestead exemption provides for a reduction in the net taxable value of the owner's personal residence. The amount of the exemption is reviewed every two years. Under the provisions of the Homestead statute, a person or persons must be 65 years of age or older or totally disabled during the year for which application is made, and must own, occupy and maintain a residential unit for such exemption.

3. Age Requirement

A person or persons owning, living in and maintaining a residential unit must meet the 65 years of age requirement. If only one spouse is 65, the age requirement is met.

4. Verification of Age

Date of birth of the applicant(s) must be established by a substantiating document, such as:

1. Birth certificate\* or birth registration\*
2. Confirmation or baptismal records
3. Driver's License\* or state issued photo ID\*
4. Medical Assistance Card carrying an A or J prefix to Social Security Number
5. Passport\*
6. Red, White and Blue Medicare Card issued by Social Security
7. School records

\* primary documentation

5. Disability Requirements

A person must be classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth. In addition, the following provisions must be met:

- A. The applicant must have maintained the disability classification for the entire year.
- B. The applicant must have received disability payments under this classification.
- C. Verification documentation must be submitted to the property valuation administrator by December 31 in the first year of eligibility.

6. Review of Applicants

At any time a Property Valuation Administrator may conduct a review of applications and may require an applicant to reapply or submit proof of continuing disability and benefits received.

7. KRS 132.810(2)(h) provides, "When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator or agent shall report such transfer to the property valuation administrator."

8. Fraudulent Misrepresentations

Under the provisions of KRS 132.990(1), "Any person who willfully fails to supply the property valuation administrator or the Department of Revenue with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars (\$500)."







DEPARTMENT OF VETERANS AFFAIRS

January 31, 2018

John Doe  
000 QUEENS BVLD  
PARTS UNKNOWN, KY 00000

In reply, refer to:  
327  
File Number: 00000000  
JOHN DOE

Dear Mr. Doe:

This letter is a summary of benefits you currently receive from the Department of Veterans Affairs (VA). We are providing this letter to disabled Veterans to use in applying for benefits such as housing entitlements, free or reduced state park annual memberships, state or local property or vehicle tax relief, civil service preference, or any other program or entitlement in which verification of VA benefits is required. Please safeguard this important document. This letter replaces VA Form 20-5455, and is considered an official record of your VA entitlement.

**- - America is Grateful to You for Your Service - -**

Our records contain the following information:

**Personal Claim Information**

Your VA claim number is: 000000000  
You are the Veteran.

**Military Information**

Your character(s) of discharge and service date(s) include:

Branch of Service	Character of Service	Entered Active Duty	Discharged
Marine Corps	Honorable	00/00/2000	00/00/2012

(You may have additional periods of service not listed above)

**VA Benefits Information**

Service-connected disability: YES  
Your combined service-connected evaluation is: 100%  
The effective date of the last change to your current award was: 00/00/2017  
Your current monthly award amount is: \$3,333.00  
Are you being paid at the 100 percent rate because you are unemployable due to your service-connected disabilities: YES

File Number: 00000000  
DOE, JOHN

Are you considered to be totally and permanently disabled due to your service-connected disabilities: YES

You should contact your state or local office of veterans' affairs for information on any tax, license, or fee-related benefits for which you may be eligible. State offices of veterans' affairs are available at <http://www.va.gov/statedva.htm>.

## **What is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you
- Track the status of your claim or appeal
- Obtain verification of military service, civil service preference, or VA benefits
- And much more!

Enrolling in eBenefits is easy. Just visit [www.eBenefits.va.gov](http://www.eBenefits.va.gov) for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

## **Need Additional Information or Verification?**

If you have any questions about this letter or need additional verification of VA benefits, please call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 711. Send electronic inquiries through the Internet at <https://iris.va.gov>.

Sincerely yours,

**Regional Office Director**

## DEPARTMENT OF VETERANS AFFAIRS

### VA Benefit Details

**SERVICE-CONNECTED DISABILITY:** A condition incurred during or aggravated by military service, for which the Veteran is receiving VA benefits

**COMBINED SERVICE-CONNECTED EVALUATION:** The Veteran's disability rating for all conditions determined to be service-connected.

**CURRENT Monthly AWARD AMOUNT:** The monthly monetary benefit paid to the Veteran or survivor receiving benefits under a VA program.

**NON-SERVICE-CONNECTION PENSION:** Benefit for a non-service connected Veteran who meets specific criteria, which include disability or age, wartime service, minimum length of service, and income restrictions. If a Veteran is eligible for service-connected benefits and pension benefits, VA will pay the higher benefit.

**INDIVIDUAL UNEMPLOYABILITY (IU):** The Veteran is receiving payment at the 100 percent rate, even though the combined service-connected evaluation is not 100 percent. The Veteran's service-connected conditions cause him/her to be unable to obtain or maintain substantially gainful employment because of the Veteran's service-connected conditions. The Veteran must periodically certify continued unemployability, but if there is no scheduled future reduction or medical examination required, he/she may be considered by some states to be permanently and totally disabled.

**PERMANENT AND TOTAL (P&T) DISABILITY:** The Veteran is considered by VA to be permanently and totally disabled because of his/her service-connected conditions.

**SPECIAL MONTHLY COMPENSATION:** The Veteran is receiving additional compensation for one or more of the following: a service-connected loss of or loss of use of one or more specific organs or extremities; a combination of severe disabilities; is 100 percent disabled and housebound, bedridden, or in the need of the aid and attendance of another person.

**SPECIALLY ADAPTED HOUSING and/or SPECIAL HOME ADAPTION GRANT:** Grants provided by VA to service-connected Veterans and service members to help build a new specially adapted house, to adapt a home they already own, or buy a house and modify it to meet their disability-related requirements.

### Wartime Service Periods

**Mexican Border Period:** May 9, 1916, through April 5, 1917, for Veterans who served in Mexico, on its borders or in adjacent waters.

**World War I:** April 6, 1917, through November 11, 1918; for Veterans who served in Russia, April 6, 1917, through April 1, 1920; extended through July 1, 1921, for Veterans who had at least one day of service between April 6, 1917, and November 11, 1918.

**World War II:** December 7, 1941, through December 31, 1946.

**Korean War:** June 27, 1950, through January 31, 1955.

**Vietnam War:** August 5, 1964 (February 28, 1961, for Veterans who served "in country" before August 5, 1964), through May 7, 1975.

**Gulf War:** August 2, 1990, through a date to be set by law or Presidential Proclamation.