

## RULEMAKING HEARINGS

### TENNESSEE STATE BOARD OF EQUALIZATION - 0600

There will be a hearing before the Tennessee State Board of Equalization to consider the amendment of rules pursuant to Tenn. Code Ann. §§67-1-305. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. §4-5-204 and will take place in the 17<sup>th</sup> floor conference room, James K. Polk State Office Bldg., 505 Deaderick Street, Nashville, Tennessee, at 10:30 a.m. on the 17<sup>th</sup> day of November, 2006.

Any individuals with disabilities who wish to participate in these proceedings should contact the Board to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact should be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Board to determine how it may reasonably provide such aid or service. Initial contact may be made with the Board's ADA Coordinator, Elaine Driver, at Ste. 1400, 505 Deaderick St., Nashville, TN 37243-0261 and tele. no. 615/401-7738.

For a copy of this notice of rulemaking hearing, contact: Kelsie Jones, Ste. 1700, 505 Deaderick St., Nashville, TN 37243-0280, and tele. no. 615/747-5379.

### SUBSTANCE OF PROPOSED AMENDMENT

#### CHAPTER 0600-3 TAX RELIEF

Rule 0600-3-.02 Definitions is amended by adding the following new items:

- (8) "Division" is hereby defined as the Division of Property Assessments, Tax Relief Section.
- (9) "Collecting Official" is the county trustee or city collector and can include designees such as the deputies and assistants.
- (10) "Primary Residence" is the place where a person's habitation is fixed and is where, during periods of absence, the person definitely intends to return. A change of residence is made not only by relocation, but also by intent to remain in the new location permanently and by demonstrating actions consistent with that intention. Other factors which may be considered to determine a primary residence include purpose for a person's presence in a particular place; and the place of the person's licensing for activities such as driving.

Rule 0600-3-.02 Definitions is further amended by deleting paragraph (5) and substituting the following:

"Application credit voucher" (herein referred to as ACV) is (a) the tax relief application approved by the Division of Property Assessments for use in tax years subsequent to a recipient's initial year of tax relief, and (b) a voucher to be used for payment of taxes by a tax relief recipient in subsequent years of eligibility.

Rule 0600-3-.03 Age Requirement is amended by deleting the second sentence of paragraph (1) and substituting the following:

Acceptable evidences include, but are not limited to, (a) copy of birth certificate; (b) copy of medicare card; (c) copy of medicaid card; (d) copy of marriage certificate which states the taxpayer's age; or (e) copy of valid census record. Acceptable evidence will include verification of the date of birth provided by the Social Security Administration either by direct access or mail.

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Rule 0600-3-.04 Disability Requirement (Non-Veteran) is amended by deleting paragraph (1) and substituting the following:

A taxpayer, in order to satisfy property tax relief disability requirements, must be totally and permanently disabled during the tax year, and provide evidence of same no later than May 31 following the taxing jurisdiction's delinquency date. Acceptable evidence is written verification from (a) the Social Security Administration, (b) the Tennessee Department of Human Services, (c) the Veteran's Administration, (d) the Railroad Retirement Board, or (e) the duly constituted authority of any governmental or private entity which does not participate in the Social Security system. Acceptable evidence will include verification of the current disability status provided by the Social Security Administration either by direct access or mail. A duly constituted authority shall be any official body which would be recognized under law to grant benefits to an employee of that entity based on total and permanent disability. If the applicant is not eligible to obtain a written verification from one of the enumerated agencies, he or she may submit statements of a physician or other competent proof sufficient to establish disability in accordance with Social Security criteria for disability in effect at the time of application.

Rule 0600-3-.04 Disability Requirement (Non-Veteran) is further amended by deleting the last sentence of paragraph (2) and substituting the following:

Written verification must be received by the Division no later than May 31 following the taxing jurisdiction's delinquency date.

Rule 0600-3-.05 Veteran's Disability Requirement is amended by deleting the language "for a period of at least five (5) months" from the first sentence.

Rule 0600-3-.05 Veteran's Disability Requirement is further amended by deleting paragraph (1) and substituting the following:

Acceptable evidence for a service connected cause is written verification from the Veteran's Administration confirming (a) the service connected cause attributing to said disability, (b) total and permanent disability, and (c) the extent of said disability, i.e. paralysis, loss, or loss of use, of two or more limbs, or both eyes (including legal blindness).

Rule 0600-3-.05 Veteran's Disability Requirement is further amended by deleting paragraph (2) and substituting the following:

Acceptable evidence for a prisoner of war is written verification from the Veteran's Administration confirming that the total and permanent disability resulted from having served as a prisoner of war.

Rule 0600-3-.06 Widow(er) Of Disabled Veteran Requirement is amended by deleting the word "sole" from the third sentence of paragraph (1).

Rule 0600-3-.06 Widow(er) Of Disabled Veteran Requirement is further amended deleting paragraph (2) and substituting the following:

Acceptable evidence will be (a) written verification from the Veteran's Administration confirming the deceased veteran's disability; (b) a copy of the disabled veteran's death certificate; (c) ownership documentation; and (d) a form of identification for the spouse such as a copy of driver's license, medicare card, social security card, military i.d. card, etc.

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Rule 0600-3-.07 Certification Of Ownership And Residency is amended by deleting the last sentence of paragraph (2)(a) and substituting the following:

The taxpayer must establish that he or she was an owner of the property during the tax year, by evidence submitted no later than May 31 following the delinquency date for the tax jurisdiction.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting the words “on the face of the application” from paragraph (2)(b).

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting item (2)(c) in its entirety so that item (2)(c) as amended reads as follows:

That the authority to sign for the owner was established if someone other than the property owner applied or signed the application and a copy of the documentation was provided.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting paragraph (3)(b) so that item (3) as amended reads as follows:

For the ACV, before completing the certification, the collecting official must establish through the ownership and income information that the applicant reported information consistent with that of prior years and there is no reason to believe the applicant misunderstood the instructions.

Rule 0600-3-.07 Certification Of Ownership And Residency is further by deleting (4)(a) in its entirety and substituting the following:

Life Estate. A holder of a life estate may be eligible for tax relief. If the life estate is not shown on the tax receipt, acceptable evidence must be provided. Acceptable evidence will be a recorded property deed or other acceptable conveyance.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting paragraph (4)(b) part 1. and substituting the following:

1. If the surviving spouse is eligible by age/disability, ownership/residency, and income to receive tax relief in future years, he or she may apply on the DV and be qualified as a new applicant. If an ACV was received in the name of the deceased spouse, it is to be voided and returned to the state office with the application of the surviving spouse.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting (4)(c) and substituting the following:

- (c) Mobile Home Owner. An eligible taxpayer owning and whose primary residence is a mobile home may obtain tax relief if the following is provided in addition to the taxpayer’s application.
1. A title or bill of sale (If a title or bill of sale is not available, an affidavit of purchase or inheritance may be provided.);
  2. In the event the taxpayer does not own the land, a form from the assessor showing the assessment value of the mobile home; and
  3. A copy of the tax receipt.

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Rule 0600-3-.08 Income Requirement is amended by deleting the second sentence of (1) and substituting the following:

The yearly income will be the total combined income of all property owners for the calendar year prior to the tax year for which property tax relief is requested.

Rule 0600-3-.08 Income Requirement is further amended by deleting paragraph (3) and substituting the following:

Annual income from all sources shall include, but is not limited to, social security payments after the medicare deduction, social security disability after the medicare deduction, supplemental security income, retirement and pension benefits after deduction of healthcare insurance premiums, veteran's benefits, worker's compensation, unemployment compensation, salaries and wages, alimony, total interest and total dividends. For income from a business, farm, rental property, estate settlement, sale of securities, or other comparable source, include only the net income or loss after expenses. Documentation of the loss must be provided with the application. Gain or loss from the sale of a principal residence, AFDC, child support, food stamps, and VA aid and attendance shall not be considered income. Except as otherwise provided by statute or these rules, determinations regarding the income of an applicant or owners of property shall be guided by the federal income tax requirements for determining income in effect on January 1, 1992. When determining the income using a tax return, the adjusted gross income amount is used. This amount is added to any income sources specified above which may not be taxable by IRS standards.

Rule 0600-3-.08 Income Requirement is further amended by adding the following new subsection:

- (4) Social Security, Railroad Retirement benefits, and Veterans Administration benefits that are required to be paid to a nursing home for the care of the taxpayer, or co-owner(s), shall not be considered as income. Documentation completed by the nursing home administrator or person handling the taxpayer's business must be provided.

Rule 0600-3-.09 Methods of Application is amended by deleting the rule in its entirety and substituting the following:

- (1) Disbursement Voucher (initial application)
  - (a) The initial application for property tax relief is initiated by a DV application. The collecting official must assist the taxpayer in completing the form to ensure that all the information is accurate and complete. The application must be signed by all owners of the property and the collecting official must complete the certification. If the application is a joint county and city application, only the signature of one of the collecting officials is required.
  - (b) The collecting official does not have the legal authority to sign for the taxpayer on the DV. In the event the applicant cannot sign, one of the following methods for signature can be used.
    1. An individual with legal authority can sign for the applicant. Evidence of legal authority must accompany the application.
    2. An applicant's "X" mark can be obtained with the signatures and addresses of two witnesses.

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- (c) A DV can be used when the taxpayer is paying the taxes in full prior to 35 days after the delinquency date of the jurisdiction. When the taxes are paid in full, the collecting official will provide a copy of the tax receipt and submit the application to the Division by paper form or electronically. On approval, the taxpayer will receive the warrant for the amount of the relief.
  - (d) A DV can be used as a credit prior to 35 days after the delinquency date of the jurisdiction. The collecting official may calculate the amount of the tax relief and directly credit the taxpayer's bill in advance of approval by the Division. The collecting official must provide a receipt with the DV showing the amount of the credit applied and any remaining balance as paid. Upon approval, the Division will forward payment to the collecting official. In the event the DV is not approved, the Division will send a notification letter to the applicant advising the applicant of the non-approval. The collecting official will receive a copy of the notification letter.
- (2) Application Credit Voucher (subsequent application)
- (a) In each year following the year of initial application, an ACV application will be prepared for each taxpayer who received property tax relief in the previous tax year. The application will be distributed to each recipient on or about the first tax payment date for the jurisdiction. A duplicate copy will also be distributed to the collecting official together with a printed report (ACV Select Listing).
  - (b) The ACV may be presented to the collecting official together with the balance of the property tax payment. The collecting official will verify all information on the form, certify the same with his/her signature, and accept the ACV as partial payment of the property tax. The taxpayer should sign both copies of the ACV form. The ACV will be submitted to the Division for approval and payment of the property tax relief amount to the collecting official by paper form or via electronic means.
  - (c) The ACV may be presented to the collecting official together with full payment of the property tax. The collecting official will indicate in the payment instructions "Pay the Applicant" and present same to the Division for approval and payment. The property tax relief amount will be sent directly to the recipient.
  - (d) When the ACV is presented to the collecting official and the applicant is deemed ineligible, the reason for ineligibility will be indicated on the ACV. Also, ACVs that were never presented/used and the reason is unknown should be returned to the Division. These ACVs must be returned to the Division to ensure the accuracy of tax relief records.
  - (e) If the collecting official verifies through personal knowledge that the applicant is unable to sign and is not deceased, the collecting official can certify that the applicant is unable to sign on the ACV. Acceptable alternatives to the applicant's signature also include an individual with legal authority to act for the applicant such as a power of attorney, guardian, or conservator. Documentation of the legal authority must be provided in such cases.

Rule 0600-3-.10 Document Control is amended by deleting the last sentence in paragraph (1)(b).

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Rule 0600-3-.10 Document Control is further amended by deleting the word “immediately” from the second sentence in paragraph (1)(c).

Rule 0600-3-.10 Document Control is further amended by deleting the words “short form” from heading of paragraph (2).

Rule 0600-3-.11 Acceptance of Property Tax Relief Applications is amended by deleting the first paragraph and substituting the following:

Property tax relief applications must be submitted to the collecting official within 35 days after the delinquency date of the jurisdiction. The collecting official must review each application, certify its validity, and present same to the Division for approval and processing as soon as possible. Applications will not be accepted after May 31 following the delinquency date of the jurisdiction.

Rule 0600-3-.11 Acceptance Of Property Tax Relief Applications is further amended by deleting paragraph (1)(b) and substituting the following:

In addition to other deadlines imposed by these rules for submission of applications to the collecting official, all applications (DVs and ACVs) and supporting documentation must be submitted to the state office by May 31 following the delinquency date of the jurisdiction.

Rule 0600-3-.11 Acceptance Of Property Tax Relief Applications is further amended by deleting the last sentence of paragraph (3)(a) and substituting the following:

This provision for lost applications does not supersede the deadline of May 31 set forth in part (1)(b) above.

Rule 0600-3-.14 Moratorium on the Collection of Overpayments Due to Mistake should be deleted in its entirety and subsequent sections should be renumbered accordingly.

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is amended by deleting the language “the front of” from paragraph (1)(c).

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by adding “pursuant to 67-5-701(g)(1)” to the end of the sentence of item (4).

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by deleting item (6) in its entirety and substituting the following language:

An ACV will not be processed by the state office unless recertification is accomplished at least every fourth tax year. In the fourth year, a message indicating “Recertification is Mandatory” will print on the vouchers for all applicants who have not been recertified in the three previous tax years. For example: ACVs produced for tax year 2006 will indicate “Recertification is Mandatory” for any applicants who have not been recertified since tax year 2002. Without recertification, these ACVs will not be approved for payment. It is the collecting official’s responsibility to develop a means of recertifying each recipient with the recertification message.

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Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by deleting item (7) in its entirety and substituting the following:

Recertification of Disabled Homeowners: Beginning in tax year 1985, and every fourth year thereafter, the state office shall be responsible for obtaining current proof of disability of disabled homeowner recipients who qualified pursuant to T.C.A. §67-5-703 (Disabled Homeowners). Recertification of permanent and total disability is not required for those veterans who qualified according to T.C.A. §67-5-704 (Disabled Veteran's Residence). Disabled homeowner eligibility shall be established either by the receipt of current written verification from an authority duly constituted to make a determination that the homeowner is currently permanently and totally disabled; or, if the applicant is not eligible to obtain such verification; statements of a physician or other competent proof sufficient to establish disability in accordance with current Social Security criteria for disability may be submitted.

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by deleting paragraph (5) in its entirety and renumbering accordingly.

*Authority: T.C.A.. §67-1-305.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of September, 2006. (09-09-06)