

ordinance; however, the penalty and interest prescribed by that statute prevail over the municipality's charter or ordinance and do not attach until March 1 following the tax due date.

A municipality is barred from collecting property taxes following 10 years after April 1 of the year in which such taxes became delinquent. T.C.A. § 67-5-1806.

T.C.A. § 67-5-1512 outlines the conditions under which taxpayers appealing their assessments must pay all or a part of the property tax and interest during the appeals process as a condition of the appeal.

Property taxes, interest, and penalties owed to the state, county, and municipality on property shall become and remain a first lien upon the property from January 1 of the year for which the taxes were assessed. Property taxes are also a personal debt of the property owners as of the same date. T.C.A. § 67-5-2101.

Cities have the authority to give foreclosed properties to private, non-profit entities. T.C.A. § 67-5-2509(d)(2).

Extension of Due Date for Military Personnel Engaged in Hostilities

T.C.A. § 67-5-2011 extends the due date of property taxes owed by persons in the armed services or who are called into active duty from a reserve or National Guard unit and who are engaged in hostilities until 180 days after the conclusion of the hostilities or 180 days after the person is transferred from the area of hostilities, whichever is sooner.

Intangible Personal Property

The constitution allows taxing stocks, bonds, and other intangible personal property. Intangible personal property is classified and assessed as the legislature directs. Banks and other financial institutions may be taxed in such manner as the legislature provides, and these taxes are in lieu of the property tax on shares of stock, customers' accounts, or any other type of intangible property (Article II, Section 28). Cities do not tax intangible property. However, they do receive a share of the Hall income tax (see later section entitled "Hall Income Tax"), as well as revenue from property taxes on intangible property having no actual *situs* in this state paid by utilities and carriers and distributable to counties, municipalities, and taxing districts. T.C.A. § 67-5-1325.

Property Tax Relief for the Elderly and Disabled

Article II, Section 28, of the Tennessee Constitution provides that the legislature "shall provide, in such manner as it deems appropriate, tax relief to elderly, low-income taxpayers through payments by the state to reimburse all or part of the taxes paid by such persons on owner-occupied residential property, but such reimbursement shall not be an obligation imposed directly or indirectly upon counties, cities, or towns." It also authorizes the legislature to provide tax relief to totally and permanently disabled homeowners "as provided herein for the elderly."

T.C.A. § 67-5-702 and T.C.A. § 67-5-703, respectively, provide state-reimbursed tax relief to people age 65 and older and to totally and permanently disabled homeowners under rules and regulations adopted by the state board of equalization. These property owners must meet maximum income requirements set annually in the state's General Appropriations Act. The ceiling is revised yearly based on the cost-of-living adjustment for Social Security recipients. The tax relief applies to the first \$25,000 of the home's full market value. T.C.A. § 67-5-704 provides state-reimbursed tax relief to severely disabled veterans and their surviving spouses on the first \$175,000 of the full market value of their homes, regardless of their total annual income.

The state board of equalization has issued rules and regulations governing the administration of T.C.A. §§ 67-5-701-704, including definitions, age requirements, disability requirements, widows of disabled veterans requirements, certification of ownership and residency requirements, income requirements, methods and handling of applications (including forms and documents), and decertification requirements (Rule 0600-3-.01, *et seq.*).

Four statutes authorize municipalities to create their own supplemental tax relief programs for the elderly and disabled. Two are pure tax relief statutes, and two are tax deferral statutes. Under T.C.A. § 67-5-705, the city may, by resolution, adopt a program freezing the property tax of people age 65 and older whose annual incomes do not exceed \$12,000. The tax is frozen at the amount they paid in the tax year they reached 65. Improvements to the property are taxed as prescribed by the statute. In *Perkins v. Alexander*, the Chancery Court of Shelby County on January 10, 1980, declared that statute violated Article II, Section

28, of the Tennessee Constitution, which requires that all property be taxed according to its value, that taxes be equal and uniform within a taxing jurisdiction, and that tax relief for the elderly could not be imposed by the state upon local governments. Although that case has no formal precedential value, it is persuasive.

T.C.A. § 67-5-701(j) allows all counties and municipalities to appropriate funds for the tax relief of elderly low-income and disabled homeowners who are eligible for tax relief under state law. The tax relief provided cannot exceed the total taxes actually paid.

T.C.A. § 67-5-1515 allows a property tax freeze for certain elderly homeowners in Shelby County. This tax freeze is optional for the county governing body but would also apply to municipal taxes.

T.C.A. §§ 7-64-101 *et seq.*, (Chapter 821 [Public Acts 1998] Deferral) authorize municipalities to *defer*, by resolution, taxes on principal residences owned by single people, married couples over the age of 65, and totally disabled people whose gross annual income is less than \$12,000. The city's governing body may by a two-thirds vote approve an increase in the gross income to \$25,000 a year; approval must be certified to the Tennessee Secretary of State. The tax deferral applies to the principal residence and a maximum of one acre of land and to a maximum of \$60,000 appraised market value. Improvements to the property are taxed as provided in the statute. The assessment of taxes continues on an annual basis, and the tax deferral continues until a terminating event such as death of the person(s) to whom the deferral was granted or sale of the residence. The deferred taxes constitute a lien on the property and earn 10 percent interest annually but are not subject to the statutory penalties for delinquent taxes. The schedule for payment of deferred taxes after a terminating event is set out in the statute.

T.C.A. §§ 7-64-201, *et seq.*, (Chapter 659 [Public Acts 1980] Deferral) authorize municipalities by resolution to *defer* taxes on principal residences owned by taxpayers and their spouses over the age of 65, totally and permanently disabled taxpayers, and disabled veterans whose combined incomes do not exceed \$12,000 annually. The city's governing body may by a two-thirds vote approve an increase in the gross income to \$25,000 a year; approval must be certified to the Tennessee Secretary of State. The tax deferral is limited to the principal residence and one acre of land and to a maximum appraised value of \$50,000. A qualifying taxpayer who turned 65 on or before March 27, 1980, is entitled to a tax deferral on taxes in excess of his or her 1979 taxes, and a qualifying taxpayer who turned 65 after March 27, 1980, may defer any taxes in excess of the amount of taxes in effect the year the taxpayer turned 65. A qualifying taxpayer who purchases property after turning 65 may defer taxes in excess of the amount of taxes owed in the year the property was purchased. Improvements to property are taxed as provided in the statute. The statute's provisions for a tax lien and interest are similar to those in T.C.A. §§ 7-64-101, *et seq.* Termination of deferral events include death of the person(s) to whom the deferral was granted, sale of the residence, and change in the use of the property from the principal place of residence.

→ **Local Option Property Tax Freeze**

In addition to the state property tax relief program mentioned above, T.C.A. § 67-5-705 allows municipalities and counties to provide property tax relief to homeowners 65 years of age and older who have low income. The municipality must pass an ordinance to implement the freeze, which applies to the elderly homeowner's principal residence. Taxes would be frozen at the "base tax," which is the amount due in the year the taxpayer becomes eligible for the program and successfully applies. Improvements made or discovered after the tax base is established, however, would increase the taxes owed.

To qualify for the freeze, the taxpayer must be 65 years of age or older and have income, combined with that of any other owners of the residence, within the greater of the weighted average median household income for (1) age groups 65 to 74 and (2) age groups 75 and over, and the state tax relief income limit. The weighted average median household income for each county must be published annually by the comptroller. The taxpayer must apply annually to the tax collecting official, who approves or denies the application.

The comptroller will provide income verification and other services to implement this freeze, and municipalities and counties must pay the costs. Financial records are confidential but will be made available to officials who administer this program. A taxpayer who knowingly provides false information to take advantage of the program commits a Class A misdemeanor.

The maximum size of lots (five acres) eligible for the freeze and other rules for implementation of the

program are established by the state Board of Equalization through the Division of Property Assessments.

Golf Courses as Farm Property

Golf course playing-hole improvements are now included as farm property. Therefore, the property tax rate is 25 percent rather than 40 percent of the appraised value. T.C.A. § 67-5-501(3).

In-Lieu-of-Tax Payments⁷

Tennessee Valley Authority In-Lieu-of-Tax Payments

The Tennessee Valley Authority (TVA) pays 5 percent of gross power sales proceeds to the state in lieu of taxes. Counties and cities are allocated 48.5 percent of the increase in TVA payments made to the state above the amount received in the base year (fiscal year 1978). Counties receive 70 percent of this allocation, and cities receive 30 percent.

Distribution of the city share is based on population. Three percent of the earmarked revenue is allocated to cities and counties affected by TVA power plant construction. Cities that received TVA in-lieu-of-tax payments from the state before implementing the per capita formula continue to receive that amount in addition to the formula allocation. T.C.A. §§ 67-9-101-103. (For the most current per capita figure, see MTAS's annual *Hot Topic* on state revenue estimates.)

Utility Tax Equivalents

Tennessee cities that operate electric distribution systems are allowed to take tax equivalents up to maximums prescribed by the Municipal Electric System Tax Equivalent Law of 1987. This law replaces former statutory provisions and supersedes all charter or private act provisions.

The allowed payment is an amount equal to the property tax the system would pay if it were a private utility, plus 4 percent of the average of revenue minus power costs from electric operations for the preceding three fiscal years. T.C.A. § 7-52-304. A city's governing body is allowed to prescribe the amount up to the maximum after consulting with a power board to determine the "fair share of the cost of government" borne by the municipality on behalf of the utility. The act also provides for tax equivalent payments to the county government and to neighboring municipalities served by a city's electric distribution system. T.C.A. §§ 7-52-301-310.

Another act contains almost identical provisions and is applicable to gas systems owned and operated by municipalities, counties, and metropolitan governments. It, too, supersedes the provisions of any charter or private act. T.C.A. §§ 7-39-401-406.

In-Lieu-of-Property-Tax Expenditure Reports by CDBG Recipients

T.C.A. § 6-54-124 requires municipalities that receive community development block grants (CDBG) and municipalities and industrial development corporations that are party to an in-lieu-of-property-tax agreement to make a report addressing the expenditures of such funds. In addition, municipalities must place a copy of the report in the main branch of their public libraries or on the Internet.

Municipal Utility In-Lieu-of-Tax Payments

Municipalities are authorized to request by resolution in-lieu-of-tax payments from any public works. T.C.A. § 7-34-115. "Public works" is defined by T.C.A. § 7-34-104(3) as water; sewer; gas or electric heat, light, or power; or parking facilities. Except for municipal gas and electric plants, these payments may not exceed the amount of taxes payable on private property of a similar nature. T.C.A. § 7-34-115. Gas and electric in-lieu-of-tax payments are computed under T.C.A. § 7-39-404 and T.C.A. §§ 7-52-301, *et seq.*, respectively.

Housing Authority In-Lieu-of-Tax Payments

Housing authorities "shall agree" to pay in-lieu-of-tax payments or special assessments not to exceed the cost of services, improvements, or facilities provided. T.C.A. § 67-5-206. A similar requirement provides

⁷For a short discussion of payments in lieu of taxes by industrial development corporation lessees, see Chapter 12, "Economic Development," in this handbook.

(d) Any information concerning the disability status of a disabled homeowner shall be confidential and shall not be subject to inspection under Tennessee public records law, compiled in title 10, chapter 7, but shall be available to local or state officials who administer, enforce, or audit the tax relief program or requirements under this section.

History.

Acts 1973, ch. 226, § 6; 1978, ch. 936, § 2; 1979, ch. 388, §§ 2, 3; T.C.A., § 67-646; Acts 1983, ch. 127, § 2; T.C.A., § 67-671; Acts 1988, ch. 496, § 2; 1988, ch. 522, §§ 7-9; 1992, ch. 964, § 2; 1992, ch. 1021, § 2; 1993, ch. 500, § 2; 1996, ch. 967, § 3; 1998, ch. 726, § 2; 1998, ch. 1031, § 2; 2006, ch. 1019, §§ 64-66; 2008, ch. 806, § 1; 2009, ch. 68, § 2; 2013, ch. 63, § 2.

Compiler's Notes.

Acts 1993, ch. 500, § 3 provided that the amendment by that act shall apply to tax year 1993.

Acts 2013, ch. 63, § 5 provided that the act, which added subsection (d), shall apply to all information submitted and received for any tax years beginning prior to April 1, 2013, as well as tax years beginning after April 1, 2013.

Amendments.

The 2013 amendment added (d).

Effective Dates.

Acts 2013, ch. 63, § 5. April 1, 2013.

Cross-References.

Confidentiality of public records, § 10-7-504.
Real property tax deferral applicable to disabled tax payers, § 7-64-211.

Tax relief for low income disabled homeowners authorized, Tenn. Const., art. II, § 28.

Section to Section References.

Sections 67-5-702 — 67-5-704 are referred to in §§ 7-5-1601, 67-5-701.

This section is referred to in §§ 7-64-211, 67-5-701, 67-5-704.

Law Reviews.

Selected Tennessee Legislation of 1983 (N. L. Resener, J. A. Whitson, K. J. Miller), 50 Tenn. L. Rev. 785 (1983).

67-5-704. Disabled veteran's residence.

(a)(1) There shall be paid from the general funds of the state to certain disabled veterans the amount necessary to pay or reimburse such taxpayers for all or part of the local property taxes paid for a given tax year on that property that the disabled veteran owned and used as the disabled veteran's residence as provided in this section.

(2) Such reimbursement shall be paid on the first one hundred seventy-five thousand dollars (\$175,000) of the full market value of such property.

(3) In determining the amount of relief to a taxpayer, the effective assessed value on the first one hundred seventy-five thousand dollars (\$175,000) of full market value shall be multiplied by a tax rate that has been adjusted to reflect the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(4) The effective assessed value shall be determined by multiplying the full market value of the property up to one hundred seventy-five thousand dollars (\$175,000) by twenty-five percent (25%).

(5) The full market value of the property shall be determined by adjusting the appraised value of the property as shown on the records of the assessor of property by a factor that reflects the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(b) For the purposes of this section, a "disabled veteran" means a person who has served in the armed forces of the United States, and who has:

(1) Acquired in connection with such service a disability from paraplegia or permanent paralysis of both legs and lower part of the body resulting from

traumatic injury or disease to the spinal cord or brain, or from legal blindness, or from loss or loss of use of two (2) or more limbs from any service-connected cause;

(2) Acquired one hundred percent (100%) permanent total disability, as determined by the United States veterans' administration, and such disability resulting from having served as a prisoner of war; or

(3) Acquired service-connected permanent and total disability or disabilities, as determined by the United States department of veterans' affairs.

(c) Under no conditions shall property tax relief extend to any person who was dishonorably discharged from any of the armed services.

(d) The determination of the United States veterans' administration concerning the disability status of a veteran shall be conclusive for purposes of this section.

(e) Property tax relief shall also be extended to the surviving spouse of a disabled veteran who, at the time of the disabled veteran's death, was eligible for disabled veterans' property tax relief. If a subsequent amendment to the law concerning eligibility as a disabled veteran would have made the deceased veteran eligible for disabled veterans' property tax relief, then property tax relief shall also be extended to the surviving spouse. A surviving spouse shall continue to qualify for disabled veterans' property tax relief as long as the surviving spouse:

(1) Does not remarry;

(2) Solely or jointly owns the property for which tax relief is claimed; and

(3) Uses the property for which tax relief is claimed exclusively as a home.

(f) Property tax relief shall also be extended to the surviving spouse of a veteran whose death results from a service-connected, combat-related cause, as determined by the United States veterans' administration; provided, that:

(1) The surviving spouse does not remarry; and

(2) The property for which tax relief is claimed is owned by and used exclusively by the surviving spouse as a home.

(g) Property tax relief shall also be extended to the surviving spouse of a soldier whose death results from being deployed, away from any home base of training and in support of combat or peace operations; provided, that the surviving spouse:

(1) Does not remarry;

(2) Solely or jointly owns the property for which tax relief is claimed; and

(3) Uses the property for which tax relief is claimed exclusively as a home.

(h) The refund provided by this section shall be in lieu of any payment under § 67-5-702 or § 67-5-703.

(i) Any information concerning the disability status of a disabled veteran or the death of a soldier shall be confidential and shall not be subject to inspection under Tennessee public records law, compiled in title 10, chapter 7, but shall be available to local or state officials who administer, enforce, or audit the tax relief program or requirements under this section.

History.

Acts 1973, ch. 226, § 6; 1976, ch. 829, § 1; 1979, ch. 281, § 1; T.C.A., § 67-647; Acts 1980, ch. 690, § 1; 1981, ch. 328, § 1; 1983, ch. 127,

§ 5; T.C.A., § 67-672; Acts 1984, ch. 802, § 1; 1984, ch. 983, § 1; 1985, ch. 113, § 1; 1988, ch. 522, §§ 10-13; 1996, ch. 967, § 1; 2002, ch. 699, §§ 1, 2; 2002, ch. 751, § 1; 2004, ch. 852, § 1;