

APPEAL # 24-1064
TAX TYPE: EXEMPT PROPERTY
TAX YEAR: 2023
DATE SIGNED: 10/25/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER, Petitioner, v. COUNTY-1 COUNCIL - TAX ADMINISTRATION, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 24-1064</p> <p>Parcel No: #####</p> <p>Tax Type: Exempt Property</p> <p>Tax Year: 2023</p> <p>Judge: Marshall</p>
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Presiding:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: PROPERTY OWNER, *Pro Se*

For Respondent: RESPONDENT'S REP-1, Tax Administration

STATEMENT OF THE CASE

This matter was argued in an Initial Hearing on August 6, 2024 in accordance with Utah Code Ann. §59-1-502.5 and §59-2-1006. Petitioner ("Property Owner") timely appealed the decision of the COUNTY-1 Council - Tax Administration ("County") to deny the Petitioner's application for the United States Armed Forces Exemption, which is commonly referred to as the "veterans' property tax exemption" for the 2023 tax year, on a residence that he had purchased on DATE. The County denied the veterans' property tax exemption because the Property Owner was not residing in COUNTY-1 on September 1, 2023, and the Property Owner owned a home in COUNTY-2 on September 1, 2023, which was granted the veterans' property tax exemption in 2023.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows, in pertinent part:

- (1) As used in this section:
 - (a) (i) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.
 - (ii) "Household" includes married individuals, who are not legally separated, who have established domiciles at separate locations within the state.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."
- (2) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.
- (3) Subject to Subsections (4) through (7) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.
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- (6) (a) Except as provided in Subsections (6)(b)(ii) and (iii), a residential exemption described in Subsection (3) is limited to one primary residence per household.
- (b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (3) for:
 - (i) subject to Subsection (6)(a), the primary residence of the owner;
 - (ii) each residential property that is the primary residence of a tenant; and
 - (iii) subject to Subsection (7), each residential property described in Subsection 59-2-102(34)(b)(ii).

However, various exemptions, abatements, and tax relief are provided in the Property Tax Act. The Armed Forces Exemption for veterans is set forth in Utah Code Ann. §59-2-1903, as follows:

- (1) As used in this section, "eligible property" means property owned by a veteran claimant that is:
 - (a) the veteran claimant's primary residence; or
 - (b) tangible personal property that:
 - (i) is held exclusively for personal use; and
 - (ii) is not used in a trade or business.
- (2) In accordance with this part, the amount of taxable value of eligible property described in Subsection (3) or (4) is exempt from taxation if the eligible property is owned by a veteran claimant.
- (3)
 - (a) Except as provided in Subsection (4) and in accordance with this Subsection (3), the amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the percentage of disability

- described in the statement of disability multiplied by the adjusted taxable value limit.
- (b) The amount of an exemption calculated under Subsection (3)(a) may not exceed the taxable value of the eligible property.
 - (c) A county shall consider a veteran with a disability to have a 100% disability, regardless of the percentage of disability described on the statement of disability, if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployability.
 - (d) A county may not allow an exemption claimed under this section if the percentage of disability listed on the statement of disability is less than 10%.
- (4) The amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the total taxable value of the veteran claimant's eligible property if the property is owned by:
- (a) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;
 - (b) a minor orphan of a veteran who was killed in action or died in the line of duty; or
 - (c) the unmarried surviving spouse or minor orphan of a deceased veteran with a disability:
 - (i) who served in the military service of the United States or the state prior to January 1, 1921; and
 - (ii) whose percentage of disability described in the statement of disability is 10% or more.
- (5) For purposes of this section and Section 59-2-1904, an individual who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:
- (a) is presumed to be a citizen of the United States; and
 - (b) may not be required to provide additional proof of citizenship to establish that the individual is a citizen of the United States.
- (6) The Department of Veterans and Military Affairs created in Section 71-8-2 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning an individual's status as a veteran with a disability.

The application requirements for the veterans' exemption are found in Utah Code Ann. §59-2-1904, below:

- (1) As used in this section:
 - (a) "Default application deadline" means the application deadline described in Subsection (3)(a).
 - (b) "Qualifying disabled veteran claimant" means a veteran claimant who has a 100% service-connected disability rating by the Veterans Benefits Administration that is permanent and total.
- (2) A veteran claimant may claim an exemption in accordance with Section 59-2-1903 and this section if the veteran claimant owns the property eligible for the exemption at any time during the calendar year for which the veteran claimant claims the exemption.

- (3)
 - (a) Except as provided in Subsection (4), (5), or (7), a veteran claimant shall file, on or before September 1 of the calendar year for which the veteran claimant is applying for the exemption, an application for an exemption described in Section 59-2-1903 with the county in which the veteran claimant resides on September 1 of that calendar year.
 - (b) An application described in Subsection (3)(a) shall include:
 - (i) a copy of the veteran's certificate of discharge from military service or other satisfactory evidence of eligible military service; and
 - (ii) for an application submitted under the circumstances described in Subsection (5)(a), a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (5)(a) takes effect.
 - (c) A veteran claimant who is claiming an exemption for a veteran with a disability or a deceased veteran with a disability, shall ensure that as part of the application described in this Subsection (3), the county has on file, for the veteran related to the exemption, a statement of disability:
 - (i) issued by a military entity; and
 - (ii) that lists the percentage of disability for the veteran with a disability or deceased veteran with a disability.
 - (d) If a veteran claimant is in compliance with Subsection (3)(c), a county may not require the veteran claimant to file another statement of disability, except under the following circumstances:
 - (i) the percentage of disability has changed for the veteran with a disability or the deceased veteran with a disability; or
 - (ii) the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.
 - (e) A county that receives an application described in Subsection (3)(a) shall, within 30 days after the day on which the county received the application, provide the veteran claimant with a receipt that states that the county received the veteran claimant's application.
- (4) A county may extend the default application deadline for an initial or amended application until December 31 of the year for which the veteran claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.
- (5) A county shall extend the default application deadline by one additional year if, on or after January 4, 2004:
 - (a) a military entity issues a written decision that:
 - (i)
 - (A) for a potential claimant who is a living veteran, determines the veteran is a veteran with a disability; or
 - (B) for a potential claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran, determines the deceased veteran was a deceased veteran with a disability at the time the deceased veteran with a disability died; and
 - (ii) takes effect in a year before the current calendar year; or
 - (b) the county legislative body determines that:
 - (i) the veteran claimant or a member of the veteran claimant's immediate family had an illness or injury that prevented the veteran claimant from filing the application on or before the default application deadline;

- (ii) a member of the veteran claimant's immediate family died during the calendar year of the default application deadline;
 - (iii) the veteran claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the default application deadline; or
 - (iv) the failure of the veteran claimant to file the application on or before the default application deadline:
 - (A) would be against equity or good conscience; and
 - (B) was beyond the reasonable control of the veteran claimant.
- (6)
- (a) A county shall allow a veteran claimant to amend an application described in Subsection (3)(a) after the default application deadline if, on or after January 4, 2004, a military entity issues a written decision:
 - (i) that the percentage of disability has changed:
 - (A) for a veteran with a disability, if the veteran with a disability is the veteran claimant; or
 - (B) for a deceased veteran with a disability, if the claimant is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability; and
 - (ii) that takes effect in a year before the current calendar year.
 - (b) A veteran claimant who files an amended application under Subsection (6)(a) shall include a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (6)(a) takes effect.
- (7)
- (a) A qualifying disabled veteran claimant may submit an application described in Subsection (3)(b) before the qualifying disabled veteran claimant owns a residence if the qualifying disabled veteran claimant:
 - (i) intends to purchase the residence as evidenced by a real estate purchase contract or similar documentation;
 - (ii) files the application in the county where the residence that the qualifying disabled veteran claimant intends to purchase is located; and
 - (iii) intends to use the residence as the qualifying disabled veteran claimant's primary residence.
 - (b)
 - (i) The county shall process the application and send the qualifying disabled veteran claimant a receipt, which shall also include documentation that:
 - (A) the application is preliminarily approved or denied; and
 - (B) if the application is preliminarily approved, the amount of the qualifying disabled veteran claimant's tax exemption calculated in accordance with Section 59-2-1903.
 - (ii) The county shall provide the receipt within 15 business days after the day on which the county received the application.
- (8) After issuing the receipt described in Subsection (3)(e) or (7)(b), a county may not require a veteran claimant to file another application under Subsection (3)(a) or (7)(a), except under the following circumstances relating to the veteran claimant:
- (a) the veteran claimant applies all or a portion of an exemption to tangible personal property;
 - (b) the percentage of disability changes for a veteran with a disability or a deceased veteran with a disability;
 - (c) the veteran with a disability dies;

- (d) a change in the veteran claimant's ownership of the veteran claimant's primary residence;
 - (e) a change in the veteran claimant's occupancy of the primary residence for which the veteran claimant claims an exemption under this section; or
 - (f) for an exemption relating to a deceased veteran with a disability or a veteran who was killed in action or died in the line of duty, the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.
- (9) If a veteran claimant is the grantor of a trust holding title to real or tangible personal property for which an exemption described in Section 59-2-1903 is claimed, a county may allow the veteran claimant to claim a portion of the exemption and be treated as the owner of that portion of the property held in trust, if the veteran claimant proves to the satisfaction of the county that:
- (a) title to the portion of the trust will revert in the veteran claimant upon the exercise of a power by:
 - (i) the veteran claimant as grantor of the trust;
 - (ii) a nonadverse party; or
 - (iii) both the veteran claimant and a nonadverse party;
 - (b) title will revert as described in Subsection (9)(a), regardless of whether the power described in Subsection (9)(a) is a power to revoke, terminate, alter, amend, or appoint; and
 - (c) the veteran claimant satisfies the requirements described in this part for the exemption described in Section 59-2-1903.
- (10) A county may verify that real property for which a veteran claimant applies for an exemption is the veteran claimant's primary residence.
- (11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule:
- (a) establish procedures and requirements for amending an application described in Subsection (3)(a);
 - (b) for purposes of Subsection (5)(b), define the terms:
 - (i) "immediate family"; or
 - (ii) "physically present";
 - (c) for purposes of Subsection (5)(b), provide the circumstances under which the failure of a veteran claimant to file an application on or before the default application deadline:
 - (i) would be against equity or good conscience; and
 - (ii) is beyond the reasonable control of a veteran claimant; or
 - (d) for purposes of Subsection (7)(a), establish the type of documentation that is evidence of intent to purchase.

Property Owners may appeal a decision of the county regarding exemptions to the Tax Commission, as provided in Utah Code Ann. §59-2-1006, below in pertinent part:

- (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by:
 - (a) filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board or

entity with designated decision-making authority described in Section 59-2-1101...

DISCUSSION

The Property Owner submitted a 2023 Disabled Veteran Exemption Application, which the County date stamped as received on DATE. The Property Owner identified the residential property for which he was seeking the veterans’ property tax exemption as parcel no. #####. He certified that the combined percentage of disability certified by the Veterans’ Administration was %%%%, that he owned the residence and that it was his primary residence. The Property Owner included a letter from the Department of Veterans Affairs dated DATE, summarizing the benefits that he received from the Department of Veterans Affairs as of that date. The letter indicated that the Property Owner’s combined service-connected disability was %%%%, with an effective date of DATE.

The Property Owner stated that he retired from the United States Air Force and is %%%% disabled. He stated that he purchased the subject property on DATE, and submitted an application for the veterans’ property tax exemption on DATE. The Property Owner stated that he received a denial letter on DATE.¹

The Property Owner stated that he understands the filing deadline is September 1, but he was unable to apply because he had not purchased the subject property by that date. The Property Owner argued that there is good cause to extend the filing deadline under Subsection (4) of Utah Code Ann. §59-2-1904. Further, he argued that to not allow his application goes against equity and good conscience. The Property Owner stated that imposing an arbitrary deadline does not fulfill the purpose of the statute, and asked the Commission to extend the filing deadline for the application.

The County’s representative stated that the County automatically grants a one-year extension because there are “vague guidelines” for an extension. She stated that for the County, the issue was not that the application was filed late, but that the County was concerned about what the County considers to be conflicting language in Subsections (2) and (3) of Utah Code Ann. §59-2-1904. The County’s representative stated that Subsection (2) provides that a veteran claimant may claim an exemption “...if the veteran claimant owns the property eligible for the exemption at any time during the calendar year for which the veteran claimant claims the exemption” and that Subsection (3)(a) provides that a veteran claimant shall file “...on or before September 1 of the calendar year for which the veteran claimant is applying for the exemption, an

¹ No information was provided at the hearing indicating whether the County had granted the veterans’ property tax exemption for the 2024 tax year.

application for an exemption described in Section 59-2-1903 with the county in which the veteran claimant resides on September 1 of that calendar year.”

The County’s representative stated that the County denied the Property Owner’s application for the 2023 tax year because the subject property was not the Property Owner’s primary residence as of September 1, 2023. She stated that the Property Owner owned a home in COUNTY-2 as of September 1, 2023, for which the Property Owner received the veterans’ property tax exemption. The County had included a copy of the 2023 Tax Notice from COUNTY-2 addressed to the Property Owner, which indicates that the veterans’ property tax exemption had been applied. There is a handwritten note on the 2023 Tax Notice indicating, “called PERSON-1 @ COUNTY-2. Treasurer to verify 2023 veteran exemption.”

The County’s representative stated that the County is asking for clarification on whether the claimant just needs to own the property, or whether the claimant must be a resident of the county as of the filing deadline. She also asked whether a claimant who owns more than one residence can choose which property would receive the veterans’ property tax exemption, or whether it is limited to the residence in which the claimant is residing as of September 1st. The County’s representative stated that she believes it is clear that a claimant may only qualify for an exemption with respect to one home in a given year. The County’s representative stated that prior to changes to the statute, the veterans’ property tax exemption was only allowed on the home owned by the veteran as of January 1. She stated she believes that the current statute is vague. The County’s representative stated that the veterans’ property tax exemption is allowed on a claimant’s primary residence, and it is the County’s position that there can only be one primary residence.

The Commission notes that this is a case of first impression. In interpreting the law in this matter, the Commission first finds that this issue is in regards to a tax exemption and the courts have found that tax exemption statutes are “strictly construed against the party claiming the exemption.” *See Morton Int’l, Inc. v. Auditing Div. of the Utah State Tax Comm’n*, 814 P.2d 581, 591 (Utah 1991). However, in *MacFarlane v. Utah State Tax Comm’n*, 134 P.3d 1116, 1121 (Utah 2006) the Utah Supreme Court has clarified, “While we agree that the rule of strict construction applies to tax exemptions, this rule is only a secondary consideration that does not always come into play. The rule of strict construction should not be utilized to defeat the intent of the legislative body . . . The best evidence of that intent is the plain language of the statute.” (Internal Citations Omitted.)

The veterans’ property tax exemption under Utah Code Ann. §59-2-1903 provides for an exemption from taxable value equal to the veteran’s percentage of disability multiplied by a

specific dollar limit. A veteran may choose to apply the exemption to his or her primary residence, personal property, or a combination of both. The amount of the veterans' property tax exemption is calculated based on an "adjusted taxable value limit," which was \$\$\$\$ for the 2023 calendar year. *See* Utah Code Ann. §59-2-1901(3).

Utah Code Ann. §59-2-1903(2) provides that the amount of taxable value of eligible property is exempt from taxation if the eligible property is owned by a veteran claimant. The Property Owner is a "veteran claimant," as defined in Utah Code Ann. §59-2-1901(12), because he is a veteran with a disability.² "Eligible property" is defined in Subsection (1) of Utah Code Ann. §59-2-1903, as property owned by a veteran claimant that is "(a) the veteran claimant's primary residence; or (b) tangible personal property that: (i) is held exclusively for personal use; and (ii) is not used in a trade or business." The Property Owner's application for the veterans' exemption certified that he owned the COUNTY-1 residence and that the COUNTY-1 residence was his primary residence.³ However, the best information available at the hearing indicates that the Property Owner had applied for, and received, the veterans' property tax exemption on his primary residence located in COUNTY-2 for the 2023 tax year.

The veterans' exemption does not expressly provide for the application of the exemption to multiple primary residences. The Commission notes that Utah Code Ann. §59-2-103(6) limits the "primary residential exemption" to one primary residence per household. However, it sets forth that an owner of multiple primary residences may receive the primary residential exemption on the primary residence of the owner, residential property that is the primary residence of a tenant, and property that is under construction or unoccupied that the assessor determines will be used for residential purposes as a primary residence. Unlike the primary residential exemption, the veterans' exemption does not allow for the owner of multiple primary residences to receive the veterans' exemption on multiple primary residences. The definition of "eligible property" specifically limits the exemption to "the veteran claimant's primary residence."

Subsection (3)(a) of Utah Code Ann. §59-2-1904 requires that an application for the exemption be filed by September 1 of the calendar year for which the veteran claimant is applying for the exemption. This subsection further provides that the application must be filed "with the county in which the veteran claimant resides on September 1 of that calendar year." Subsections (5) and (6) of Utah Code Ann. §59-2-1904 set forth circumstances under which a

² "Veteran with a disability" means an individual with a disability who, during military training or a military conflict acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity. *See* Utah Code Ann. §59-2-1901(14).

³ The Commission notes that the Property Owner did not respond to the question asking whether he had moved and previously applied for the exemption on a different home in Utah.

county must allow for an extension of the deadline or amend an application, none of which are applicable in this matter. In addition, the County is granted discretion to extend the filing deadline “for good cause” under Utah Code Ann. §59-2-1904(4), which provides:

A county may extend the default application deadline for an initial or amended application until December 31 of the year for which the veteran claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.

The County’s representative proffered that the County automatically grants a one-year extension of the deadline because it considers the guidelines for extension to be “vague.” However, it was the County’s position that the application was not denied because it was filed after September 1, but because the subject property was not the Property Owner’s primary residence, nor was he a resident of COUNTY-1, as of September 1. The Commission notes that it does not have discretion to extend the deadline, as the statute expressly gives that discretion only to a County.

The Commission notes that Utah Code Ann. §59-2-1904(7) allows for a qualifying disabled veteran claimant to submit an application prior to owning a residence if the qualifying disabled veteran meets certain requirements. The Property Owner could have applied with COUNTY-1, under Subsection 59-2-1904(7), but failed to do so, and instead elected to receive the veterans’ property tax exemption on his primary residence in COUNTY-2. The COUNTY-2 2023 Tax Notice appears to have a date of DATE in the lower, left hand corner. The Tax Notice indicates that the total taxes were \$\$\$\$\$, and that a \$\$\$\$\$ credit, identified as “veteran” on the Tax Notice, was applied. The Taxpayer provided no information that would indicate he had notified COUNTY-2 that the home was no longer his primary residence.

Utah Code Ann. §59-2-1904(2) provides that a veteran claimant may claim an exemption in accordance with Sections 59-2-1903 and 59-2-1904, if the veteran claimant owns the property eligible for the exemption at any time during the calendar year for which the veteran claimant claims the exemption. The County’s representative is correct that prior versions of the veterans’ exemption statute required that a property be owned by the Property Owner on January 1. There is no such requirement in the version of the veterans’ exemption statutes applicable to tax year 2023, which specifically provides that a veteran may claim the exemption if the veteran claimant owns the eligible property “at any time during the calendar year” for which the claim is made. However, as discussed above, the applicable statutes limit the exemption to the veteran claimant’s primary residence, and do not provide for an exemption to be claimed for multiple primary residences.⁴ The Property Owner had already received the veterans’ exemption on his primary

⁴ The Commission notes that the criteria for determining primary residence for property tax purposes is provided in Administrative Rule R884-24P-52.

residence in COUNTY-2. There is nothing in the statute that allows for the exemption to be granted on a second residence located in another county. Thus, the County properly denied the Property Owner's application for the veterans' exemption for the 2023 tax year.

Jan Marshall
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing the Commission finds the County properly denied the Property Owner's application for the veterans' exemption for the 2023 tax year. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

or emailed to:

taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this ____ day of ____, 2024.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

