

VETERANS TAX AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends a property tax exemption for certain members of the military.

Highlighted Provisions:

This bill:

- ▶ amends the definition of qualifying active duty military service to modify the time period during which a military member shall complete active duty military service to be eligible for a property tax exemption;
- ▶ modifies the application requirements for claiming the qualifying active duty military service property tax exemption; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-1104, as last amended by Laws of Utah 2015, Chapter 261

59-2-1105, as last amended by Laws of Utah 2015, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-2-1104** is amended to read:

59-2-1104. Definitions -- Armed forces exemption -- Amount of armed forces

30 **exemption.**

31 (1) As used in this section and Section 59-2-1105:

32 (a) "Active component of the United States Armed Forces" ~~[is as]~~ means the same as
33 that term is defined in Section 59-10-1027.

34 (b) "Adjusted taxable value limit" means:

35 (i) for the calendar year that begins on January 1, 2015, \$252,126; and

36 (ii) for each calendar year after the calendar year described in Subsection (1)(b)(i), the
37 amount of the adjusted taxable value limit for the previous year, plus an amount calculated by
38 multiplying the amount of the adjusted taxable value limit for the previous year by the actual
39 percent change in the consumer price index during the previous calendar year.

40 (c) "Claimant" means:

41 (i) a veteran with a disability who files an application under Section 59-2-1105 for an
42 exemption under this section;

43 (ii) the unmarried surviving spouse:

44 (A) of a:

45 (I) deceased veteran with a disability; or

46 (II) veteran who was killed in action or died in the line of duty; and

47 (B) who files an application under Section 59-2-1105 for an exemption under this
48 section;

49 (iii) a minor orphan:

50 (A) of a:

51 (I) deceased veteran with a disability; or

52 (II) veteran who was killed in action or died in the line of duty; and

53 (B) who files an application under Section 59-2-1105 for an exemption under this
54 section; or55 (iv) a member of an active component of the United States Armed Forces or a reserve
56 component of the United States Armed Forces who performed qualifying active duty military
57 service.

(d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(e) "Deceased veteran with a disability" means a deceased ~~[person]~~ individual who was a veteran with a disability at the time the ~~[person]~~ individual died.

(f) "Military entity" means:

(i) the federal Department of Veterans Affairs;

(ii) an active component of the United States Armed Forces; or

(iii) a reserve component of the United States Armed Forces.

(g) "Property taxes due" means the taxes due on a claimant's property:

(i) with respect to which a county grants an exemption under this section; and

(ii) for the calendar year for which the county grants an exemption under this section.

(h) "Property taxes paid" is an amount equal to the sum of:

(i) the amount of the property taxes the claimant paid for the calendar year for which the claimant is applying for an exemption under this section; and

(ii) the exemption the county grants for the calendar year described in Subsection (1)(h)(i).

(i) "Qualifying active duty military service" means ~~[(i)]~~ at least 200 days ~~[in a calendar year]~~, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces ~~[-or]~~ if the days of active duty military service:

(i) were completed in the year before an individual applies for exemption under this section in accordance with Section 59-2-1105; and

(ii) have not previously been counted as qualifying active duty military service for purposes of qualifying for an exemption under this section or applying for the exemption under Section 59-2-1105.

~~[(ii) the completion of at least 200 consecutive days of active duty military service outside the state;]~~

86 ~~[(A) in an active component of the United States Armed Forces or a reserve component~~
87 ~~of the United States Armed Forces; and]~~

88 ~~[(B) that began in the prior year, if those days of active duty military service outside the~~
89 ~~state in the prior year were not counted as qualifying active duty military service for purposes~~
90 ~~of this section or Section 59-2-1105 in the prior year.]~~

91 (j) "Reserve component of the United States Armed Forces" ~~[is as]~~ means the same as
92 that term is defined in Section 59-10-1027.

93 (k) "Residence" ~~[is as]~~ means the same as that term is defined in Section 59-2-1202,
94 except that a rented dwelling is not considered to be a residence.

95 (l) "Veteran who was killed in action or died in the line of duty" means ~~[a person]~~ an
96 individual who was killed in action or died in the line of duty in an active component of the
97 United States Armed Forces or a reserve component of the United States Armed Forces,
98 regardless of whether that ~~[person]~~ individual had a disability at the time that ~~[person]~~
99 individual was killed in action or died in the line of duty.

100 (m) "Veteran with a disability" means ~~[a person]~~ an individual with a disability who,
101 during military training or a military conflict, acquired a disability in the line of duty in an
102 active component of the United States Armed Forces or a reserve component of the United
103 States Armed Forces, as determined by a military entity.

104 (2) (a) Subject to Subsection (2)(c), the amount of taxable value of the property
105 described in Subsection (2)(b) is exempt from taxation as calculated under Subsections (3)
106 through (6) if the property described in Subsection (2)(b) is owned by:

107 (i) a veteran with a disability;

108 (ii) the unmarried surviving spouse or a minor orphan of a:

109 (A) deceased veteran with a disability; or

110 (B) veteran who was killed in action or died in the line of duty; or

111 (iii) a member of an active component of the United States Armed Forces or a reserve
112 component of the United States Armed Forces who performed qualifying active duty military
113 service.

(b) Subsection (2)(a) applies to the following property:

(i) the claimant's primary residence;

(ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property

that:

(A) is held exclusively for personal use; and

(B) is not used in a trade or business; or

(iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of

Subsections (2)(b)(i) and (ii).

(c) For purposes of this section, property is considered to be the primary residence of [a ~~person~~] an individual described in Subsection (2)(a)(i) or (iii) who does not reside in the residence if the [~~person~~] individual:

(i) does not reside in the residence because the [~~person~~] individual is admitted as an inpatient at a health care facility as defined in Section 26-55-102; and

(ii) otherwise meets the requirements of this section and Section 59-2-1105 to receive an exemption under this section.

(3) Except as provided in Subsection (4) or (5), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

(a) as described in Subsection (6), if the property is owned by:

(i) a veteran with a disability;

(ii) the unmarried surviving spouse of a deceased veteran with a disability; or

(iii) a minor orphan of a deceased veteran with a disability; or

(b) equal to the total taxable value of the claimant's property described in Subsection (2)(b) if the property is owned by:

(i) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

(ii) a minor orphan of a veteran who was killed in action or died in the line of duty; or

(iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military

142 service.

143 (4) (a) Subject to Subsections (4)(b) and (c), an exemption may not be allowed under
144 this section if the percentage of disability listed on the statement described in Subsection
145 59-2-1105(3)(a) is less than 10%.

146 (b) Subsection (4)(a) does not apply to a claimant described in Subsection (2)(a)(iii).

147 (c) A veteran with a disability is considered to have a 100% disability, regardless of the
148 percentage of disability listed on a statement described in Subsection 59-2-1105(3)(a), if the
149 United States Department of Veterans Affairs certifies the veteran in the classification of
150 individual unemployability.

151 (5) A claimant who is the unmarried surviving spouse or minor orphan of a deceased
152 veteran with a disability may claim an exemption for the total value of the property described
153 in Subsection (2)(b) if:

154 (a) the deceased veteran with a disability served in the military service of the United
155 States or the state prior to January 1, 1921; and

156 (b) the percentage of disability listed on the statement described in Subsection
157 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

158 (6) (a) Except as provided in Subsection (6)(b), the amount of the taxable value of the
159 property described in Subsection (2)(b) that is exempt under Subsection (3)(a) is equal to the
160 percentage of disability listed on the statement described in Subsection 59-2-1105(3)(a)
161 multiplied by the adjusted taxable value limit.

162 (b) The amount of the taxable value of the property described in Subsection (2)(b) that
163 is exempt under Subsection (3)(a) may not be greater than the taxable value of the property
164 described in Subsection (2)(b).

165 (7) For purposes of this section and Section 59-2-1105, ~~[a person]~~ an individual who
166 received an honorable or general discharge from military service of an active component of the
167 United States Armed Forces or a reserve component of the United States Armed Forces:

168 (a) is presumed to be a citizen of the United States; and

169 (b) may not be required to provide additional proof of citizenship to establish that the

[person] individual is a citizen of the United States.

(8) 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 a veteran's status as a veteran with a disability.

Section 2. Section 59-2-1105 is amended to read:

59-2-1105. Application for United States armed forces exemption -- Rulemaking authority -- Statement -- County authority to make refunds.

(1) (a) Except as provided in Subsections (1)(b) through (d), a county may allow an exemption under Section 59-2-1104 ~~[may be allowed]~~ only if the interest of the claimant is on record on January 1 of the year the exemption is claimed.

(b) A claimant may claim an exemption under Section 59-2-1104 regardless of whether the interest of the claimant is on record on January 1 of the year the exemption is claimed if the claimant is:

(i) the unmarried surviving spouse of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104; or

(ii) a minor orphan of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

(c) If the claimant has an interest in real property under a contract, the county may allow an exemption under Section 59-2-1104 ~~[may be allowed if it is proved]~~ if the claimant proves, to the satisfaction of the county, that the claimant is:

(i) the purchaser under the contract; and

(ii) obligated to pay the taxes on the property beginning January 1 of the year the exemption is claimed.

(d) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an exemption under Section 59-2-1104 is claimed, the claimant may claim the portion of the exemption under Section 59-2-1104 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(i) title to the portion of the trust will revert in the claimant upon the exercise of a power:

(A) by:

(I) the claimant as grantor of the trust;

(II) a nonadverse party; or

(III) both the claimant and a nonadverse party; and

(B) regardless of whether the power is a power:

(I) to revoke;

(II) to terminate;

(III) to alter;

(IV) to amend; or

(V) to appoint;

(ii) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the exemption; and

(iii) the claimant meets the requirements under this part for the exemption.

(2) (a) (i) A claimant applying for an exemption under Section 59-2-1104 shall file an application:

(A) with the county in which that claimant resides; and

(B) except as provided in Subsection (2)(b) or (e), on or before September 1 of the year in which that claimant is applying for the exemption in accordance with this section.

(ii) A county shall provide a claimant who files an application for an exemption in accordance with this section with a receipt:

(A) stating that the county received the claimant's application; and

(B) no later than 30 days after the day on which the claimant filed the application in accordance with this section.

(b) Notwithstanding Subsection ~~[(2)(a)(i)(B) or]~~ (2)(e):

(i) subject to Subsection (2)(b)(iv), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the:

(I) veteran has a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for an exemption under this section had a disability at the time the deceased veteran with a disability died; and

(B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in any year prior to the current calendar year;

(ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall allow the claimant to amend the application required by Subsection (2)(a) on or before September 1 of the year after the year the claimant filed the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the percentage of disability has changed for the:

(I) veteran with a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for the exemption; and

(B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in any year prior to the current calendar year;

(iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after

the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if the county legislative body determines that:

(A) the claimant or a member of the claimant's immediate family had an illness or injury that prevented the claimant from filing the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B);

(B) a member of the claimant's immediate family died during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B);

(C) the claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B); or

(D) the failure of the claimant to file the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(I) would be against equity or good conscience; and

(II) was beyond the reasonable control of the claimant; and

(iv) a county may extend the deadline for filing an application or amending an application under this Subsection (2) until December 31 if the county finds that good cause exists to extend the deadline.

(c) The following shall accompany the initial application for an exemption under Section 59-2-1104:

(i) a copy of the veteran's certificate of discharge from military service; or

(ii) other satisfactory evidence of eligible military service, including orders for qualifying active duty military service, if applicable.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) establish procedures and requirements for amending an application under Subsection (2)(b)(ii);

(ii) for purposes of Subsection (2)(b)(iii), define the terms:

(A) "immediate family"; or

282 (B) "physically present"; or
283 (iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the
284 failure of a claimant to file an application on or before the deadline for filing the application
285 established in Subsection (2)(a)(i)(B):
286 (A) would be against equity or good conscience; and
287 (B) is beyond the reasonable control of a claimant.
288 (e) Except as provided in Subsection (2)(g), if a claimant has on file with the county
289 the application described in Subsection (2)(a), the county may not require the claimant to file
290 another application described in Subsection (2)(a) unless:
291 (i) the claimant applies all or a portion of an exemption under Section 59-2-1104 to any
292 tangible personal property;
293 (ii) the percentage of disability has changed for the:
294 (A) veteran with a disability; or
295 (B) deceased veteran with a disability with respect to whom a claimant applies for an
296 exemption under this section;
297 (iii) the veteran with a disability dies;
298 (iv) the claimant's ownership interest in the claimant's primary residence changes;
299 (v) the claimant's occupancy of the primary residence for which the claimant claims an
300 exemption under Section 59-2-1104 changes; or
301 (vi) the claimant who files an application for an exemption under Section 59-2-1104
302 with respect to a deceased veteran with a disability or veteran who was killed in action or died
303 in the line of duty is a person other than the claimant who filed the application described in
304 Subsection (2)(a) for the exemption:
305 (A) for the calendar year immediately preceding the current calendar year; and
306 (B) with respect to that deceased veteran with a disability or veteran who was killed in
307 action or died in the line of duty.
308 (f) The county may verify that the real property that is residential property for which
309 the claimant claims an exemption under Section 59-2-1104 is the claimant's primary residence.

(g) (i) A member of an active component of the United States Armed Forces or reserve component of the United States Armed Forces who performed qualifying active duty military service shall~~[(i)]~~ file the application described in Subsection (2)(a) in the year after the year during which the member completes the qualifying active duty military service~~[-and]~~.

(ii) ~~[if the member]~~ If a claimant described in Subsection (2)(g)(i) meets the requirements of Section 59-2-1104 and this section to receive an exemption under Section 59-2-1104, the claimant may claim one exemption only in the year the member files the application described in Subsection (2)(g)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant except for a claimant described in Subsection (2)(g) who files an application for an exemption under Section 59-2-1104 shall have on file with the county a statement:

(A) issued by a military entity; and

(B) listing the percentage of disability for the veteran with a disability or deceased veteran with a disability with respect to whom a claimant applies for the exemption.

(ii) If a claimant except for a claimant described in Subsection (2)(g) has on file with the county the statement described in Subsection (3)(a)(i), the county may not require the claimant to file another statement described in Subsection (3)(a)(i) unless:

(A) the claimant who files an application under this section for an exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in action or died in the line of duty is a person other than the claimant who filed the statement described in Subsection (3)(a)(i) for the exemption:

(I) for the calendar year immediately preceding the current calendar year; and

(II) with respect to that deceased veteran with a disability or veteran who was killed in action or died in the line of duty; or

(B) the percentage of disability has changed for a:

(I) veteran with a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for an exemption under Section 59-2-1104.

(b) For a claimant filing an application in accordance with Subsection (2)(b)(i), the claimant shall include with the application required by Subsection (2) a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(i)(A) takes effect.

(c) For a claimant amending an application in accordance with Subsection (2)(b)(ii), the claimant shall provide to the county a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(ii)(A) takes effect.

(d) For a claimant filing an application in accordance with Subsection (2)(g), the claimant shall include with the application described in Subsection (2)(a) a statement listing the dates on which the 200 days of qualifying active duty military service began and ended.

(4) A county that grants an exemption under Section 59-2-1104 to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.

Section 3. **Contingent effective date.**

This bill takes effect on January 1, 2019, if the amendment to the Utah Constitution proposed by H.J.R. 7, Proposal to Amend Utah Constitution - Active Military Property Tax Exemption, 2017 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.