



Informational Guideline Release

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 17-18
July 2017

Supersedes Inconsistent Prior Written Statements

CLAUSE 22D PROPERTY TAX EXEMPTION
FOR
SURVIVING SPOUSES OF ACTIVE DUTY PERSONNEL AND VETERANS

[Chapter 141, §§ 9 and 25 of the Acts of 2016](#)
(Amends [G.L. c. 59, § 5\(22D\)](#))

This Informational Guideline Release (IGR) informs local officials about recent legislation that amends eligibility requirements for the full property tax exemption provided surviving spouses of certain military personnel and veterans, effective for FY2018. It also explains the standards and procedures that apply to this exemption generally.

Topical Index Key:

Exemptions

Distribution:

Assessors

Supersedes Inconsistent Prior Written Statements

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FOR
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[Chapter 141, §§ 9 and 25 of the Acts of 2016](#)
(Amends [G.L. c. 59, § 5\(22D\)](#))

SUMMARY:

These guidelines explain recent amendments made by the 2016 Housing, Operations, Military Service and Enrichment (HOME) Act to eligibility for the full property tax exemption provided surviving spouses of certain active duty military personnel under [G.L. c. 59, § 5, Clause 22D](#). See [St. 2016, c. 141, §§ 9 and 25](#). These amendments apply beginning in fiscal year 2018.

Under Clause 22D, surviving spouses of active duty service members or national guardsmen who were killed in combat, missing in action and presumed dead, or whose death was the proximate result of an injury sustained or disease contracted in a combat zone, are exempt from the taxes assessed on their domiciles. Beginning in fiscal year 2018, the requirement that the death or service-connected injury or disease be sustained in a combat zone is eliminated and surviving spouses of veterans whose proximate cause of death was an injury or illness suffered during active duty will also be eligible for the exemption. In addition, the United States Department of Veterans Administration (VA) or branch of service decision on the proximate cause of death will now be determinative of that eligibility factor, as is currently the case with respect to service-connected disabilities that make veterans eligible for other exemptions under [G.L. c. 59, § 5](#). See Clauses 22, 22A-22C, 22E, 22F. Previously, the assessors had to make their own determination that a combat zone injury or disease was the proximate cause of death. As was previously the case, the exemption may be granted until the death or remarriage of the surviving spouse.

A surviving spouse is eligible regardless of when the servicemember, national guard member or veteran died of the active duty injury or illness, but only for fiscal years 2018 and after. The legislature repealed provisions that appeared to limit eligibility to the surviving spouses of active duty personnel who died in post September 11, 2001 military engagements and to permit some retroactive eligibility.

The amended Clause 22D applies in all cities and towns beginning in fiscal year 2018 without any local action.

These guidelines are in effect and supersede any inconsistent prior written statements or documents regarding [G.L. c. 59, § 5, Clause 22D](#).

GUIDELINES:

A. APPLICATION PROCEDURE

1. Application Deadline

A taxpayer must file an application on an approved form with the board of assessors for each fiscal year for which a Clause 22D exemption is sought ([State Tax Form 96](#), [State Tax Form 96-4](#) or [State Tax Form 96-5](#)). **Each year's application is due on or before April 1, or three months after the actual tax bill is sent, whichever is later.** [G.L. c. 59, § 59](#). Assessors may not waive the filing deadline or act on a late-filed application.

2. Appeals

An applicant aggrieved by the assessors' action on an application for an exemption may appeal to the state Appellate Tax Board, or the county commissioners if they live in a county where county government has not been abolished. The appeal must be filed within three months of the date the exemption was denied, or deemed denied if the assessors did not act. [G.L. c. 59, §§ 64 and 65](#).

B. EXEMPTION QUALIFICATIONS

1. Eligibility Date

As with other personal exemptions, Clause 22D exemption status is determined as of July 1. [G.L. c. 59, § 5 \(first paragraph\)](#). All eligibility requirements for the exemption must be met as of that date.

2. Applicant's Status

a. Surviving Spouse

An applicant for a Clause 22D must be the surviving spouse of a veteran or a member of the United States military or National Guard on active duty.

A surviving spouse is the person who was married to the veteran or service or guard member at the time of his or her death and who has never remarried.

Veterans are individuals who served on active duty in the Armed Forces of the United States during peace or wartime periods and were discharged from military service. Their last discharge or release must have been under other than dishonorable conditions. See [G.L. c. 4, § 7, Clause 43](#); [Department of Veterans' Services Chart](#).

b. Durational Residency

The surviving spouse must have been domiciled in Massachusetts at least five consecutive years before applying for the exemption, or the deceased veteran or service or guard member must have been domiciled in Massachusetts at least six consecutive months before entering the service.

In communities accepting the local option in [G.L. c. 59, § 5](#), however, a surviving spouse whose deceased spouse was not domiciled in Massachusetts before entering the service must have been domiciled in Massachusetts at least one consecutive year before applying for the exemption. Once accepted, the option applies to all veteran exemptions under [G.L. 59, § 5, Clauses 22, 22A, 22B, 22C, 22D, 22E and 22F](#).

3. Service-connected Death

In the first year the exemption is sought, the applicant must provide a certification by the United States Department of Veterans Affairs (VA), or the branch of the military in which the service or guard member or veteran served, that according to its records:

- a. **Missing in Action.** The applicant's spouse is a member of the military or national guard on active duty who is missing in action and presumed dead, or
- b. **Active Duty Injury or Illness.** The applicant's spouse was a member of the military or national guard on active duty or a veteran who suffered an injury or illness during active duty that was the proximate cause of death.

Once the assessors have granted the exemption, the applicant does not have to include a certification with applications in future years.

4. Ownership

The surviving spouse must own the property on July 1.

The applicant may be the sole owner, or may own the property jointly with other natural persons. The property may not be owned in whole or in part by a business, governmental or non-profit entity.

As with other personal exemptions, an applicant who holds a life estate in the property is considered its owner. If the property is held in trust, the applicant must be a trustee who also has a sufficient beneficial interest in the property.

5. Domicile

The applicant must occupy the property as his or her domicile on July 1.

C. EXEMPTION AMOUNT

The exemption is for the entire amount of the real estate tax assessed on the domicile, including any Community Preservation or Municipal Water Infrastructure Investment Surcharge assessed on that tax.

D. ACCOUNTING

All exemptions granted are charged to the overlay.

E. STATE REIMBURSEMENT

Subject to appropriation, cities and towns will be reimbursed for the full exemption granted.

FEATURES OF CLAUSE 22D SURVIVING SPOUSES' EXEMPTION

STATUS	Deceased spouse must be certified by the VA or branch of service as being (1) a member of the military or national guard on active duty who is missing in action and presumed dead, or (2) a member of the military or national guard on active duty, or a veteran, whose active duty injury or illness was the proximate cause of death
OWNERSHIP	Surviving spouse of member of military service or national guard on active duty, or veteran, must own the property on July 1 (Same as Clauses 22-22E)
DOMICILE	<p>Surviving spouse must occupy the property as domicile on July 1 (Same as Clauses 22-22F)</p> <p>Surviving spouse must have resided in Massachusetts at least 5 consecutive years before applying for the exemption, or the deceased veteran or service or guard member must have resided in Massachusetts at least 6 consecutive months before entering the service. (Same as Clauses 22-22F)</p> <p><u>Local Acceptance Option</u></p> <p>Surviving spouse must have resided in Massachusetts at least 1 consecutive year before applying for the exemption, or the deceased veteran or service or guard member must have resided in Massachusetts at least 6 consecutive months before entering the service. (If accepted applies to Clauses 22-22F)</p>
EXEMPTION AMOUNT	Full
APPLICATION DEADLINE	April 1, or 3 months after the actual tax bill is sent, whichever is later (Same as Clauses 22-22F)
STATE REIMBURSEMENT	Exemption granted