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State of Tennessee Property Tax Freeze Program

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THE UNIVERSITY of TENNESSEE
MUNICIPAL TECHNICAL ADVISORY SERVICE

...in cooperation with the Tennessee Municipal League

#151
HOT topic

September 12, 2007

STATE OF TENNESSEE PROPERTY TAX FREEZE PROGRAM

Dick Phebus, Accounting and Finance Consultant

A LITTLE BACKGROUND

In November 2006, Tennessee voters approved an amendment to Article II, Section 28, of the Tennessee Constitution pertaining to property taxation, valuation, and rates. The amendment, as approved, gave the state legislature authority to provide a program of tax relief to taxpayers 65 years of age or older who own residential property as a principal place of residence. There were no specific guidelines given in the constitutional amendment other than authorizing all cities and counties in Tennessee to provide by resolution or ordinance a provision for freezing property tax payments for qualified homeowners.

In its 2007 session, the 105th General Assembly enacted Public Chapter 581, the Property Tax Freeze Act, which establishes the tax freeze program and authorizes the legislative body of any county or municipality to adopt the program as set out in the act. Public Chapter 581 will be codified in T.C.A. § 67-5-705. It should be noted that the property tax freeze program does not apply to tax levies of special school districts.

PROVISIONS

Qualifying taxpayers will have the property tax on their principal residence frozen at a base amount, which is the amount of property tax due on the principal residence of a qualifying taxpayer at the time the municipality levying the tax adopts an ordinance approving the property tax freeze.

The tax freeze program is not automatic. First, the municipality must adopt an ordinance approving the program. Second, the taxpayer must qualify as outlined below. Thereafter, as long as the homeowner continues to qualify annually for the program, the amount of property tax owed for that property will be frozen in the base year of adoption, even if there is a property tax rate increase in subsequent years or if the appraised value of the home increases.

In order to qualify, the homeowner must file an application annually and must meet the following requirements:

- Own their principal place of residence in a participating county or city. "Principal residence" means the dwelling owned by the taxpayer and eligible as the taxpayer's legal residence for voting purposes. Size limits for land on which the dwelling is located are determined by the program rules and shall not exceed five acres.
- Be 65 years of age or older by the end of the year in which the application is filed.

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- Have an income from all sources, including income of any other owners of the property, that does not exceed the county income limit established for that tax year. This limit is the greater of median household income for this age group or the applicable state tax relief income limit established under T.C.A. § 67-5-702.

The state comptroller's office is charged with calculating the income limit for each county for the year of application and establishing rules for implementing the program. Income limits for 2007 have been calculated and are the same for cities as for counties. Public necessity rules were promulgated by the State Board of Equalization through the Division of Property Assessments on August 22, 2007. Final rules are expected later this year.

For a copy of the public necessity rules, contact Kelsie Jones, Executive Secretary, State Board of Equalization, Suite 1700, James K. Polk Building, 505 Deaderick Street, Nashville, TN 37243-0280 or by telephone at (615) 747-5379. Additional information is available on the Web site of the State Board of Equalization, Division of Property Assessments, at www.comptroller.tn.us/pa/taxfreeze.htm.

LOCAL ADOPTION OF THE PROPERTY TAX PROGRAM

Public Chapter 581 provides that a municipality may by ordinance adopt the property tax freeze program. The act further states that a municipality may, thereafter, terminate the freeze program, also by ordinance; however, such ordinance terminating the program shall have no effect until the following year.

A municipality may adopt the freeze program at any time during the calendar year. When it is adopted, this establishes the "base year" for the property tax freeze. For example, if a city adopts the program any time up to December 31, 2007, the base year is established as property taxes levied in 2007. The qualifying taxpayer's property taxes would be frozen as the "base tax," at that level for tax years 2008 and beyond, assuming the program is not terminated and the taxpayer continues to qualify under the income limits and rules in effect.

The base tax shall be adjusted to reflect any percentage increase in the value of the property determined by the property assessor attributed to improvements made or discovered after the time the base tax was established.

EFFECTIVE DATE

The effective date of the legislation is July 1, 2007. The legislation is permissive rather than mandatory. Cities may opt to not pass an ordinance in the current year implementing the tax freeze program or wait until 2008 or thereafter to adopt it. The state attorney general's office issued an opinion on July 17, 2007, (Opinion 07-108) that states that a county or municipality can adopt the tax freeze program any time beginning July 1, 2007, the effective date of the act. A city may decide, after an analysis of the impact on revenues and expenditures, to take no action on this program. Further, a decision by a county to adopt the property

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tax freeze program will have no effect on property taxes of cities located within the county.

RECOMMENDATIONS

MTAS suggests that municipalities defer action on any ordinance implementing the tax freeze program until after the final rules have been developed. MTAS further suggests that a careful study of the impact this program might have on future revenues and operations of the city tax collection process be undertaken. Items to be considered include projected loss of revenue and administrative costs for implementing and administering the program. These costs may include adjustments or additions to existing computer software, tax freeze application processing, and a possible increase in employees to administer the program. To assist municipalities assess the overall effect of implementation, MTAS has provided a sample resolution that creates a study committee to consider the impact of such a program prior to adoption. After final rules and regulations have been promulgated by the State Board of Equalization, MTAS will provide a sample ordinance for implementing the property tax freeze program within a city's jurisdiction.

OTHER RESOURCES

The following Web sites contain supplemental information regarding this program.

- Tennessee Constitution, Article II, Section 28: http://www.comptroller.state.tn.us/pa/ArticleIISection28.pdf
- Property Tax Freeze Act, Public Chapter 581: http://www.comptroller.state.tn.us/pa/pc0581.pdf
- County Income Limit for 2007 (same limits apply for cities): http://www.comptroller.state.tn.us/pa/TaxFreezeIncomeLimits2007List.pdf

If you have further questions regarding this program, please contact your MTAS municipal management or financial consultant.

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The Municipal Technical Advisory Service (MTAS) is a statewide agency of the University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and water and wastewater management.

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RESOLUTION NO. _____

A RESOLUTION TO ESTABLISH A PROPERTY TAX FREEZE IMPLEMENTATION COMMITTEE

WHEREAS, the Tennessee General Assembly has enacted 2007 Public Chapter 531 to authorize municipalities to adopt a property tax freeze program to assist certain elderly homeowners with payment of their property taxes, which Act did take effect on July 1, 2007; and

WHEREAS, the State Board of Equalization, through its Division of Property Assessments, is required to develop and adopt rules and regulations for the administration of the program, which may include uniform definitions, application forms and requirements, income verification procedures, and other necessary and desirable rules, regulations, policies, and procedures not in conflict with the act; and

WHEREAS, the legislative body of _____, Tennessee desires to form a Property Tax Freeze Implementation Committee to begin work necessary to determine the impact of a property tax freeze program should it be adopted in _____, Tennessee; and to advise the legislative body with regard to the implementation and administration of the program;

NOW, THEREFORE, BE IT RESOLVED by the legislative body of _____, Tennessee, meeting in regular (special) session on this _____ day of _____, 200_____, that:

SECTION 1. A Property Tax Freeze Implementation Committee is hereby established. The committee shall consist of the (Mayor/City Manager/City Administrator), the (Finance Director/City Recorder/City Tax Collector), and the following members of the municipal legislative body (and/or knowledgeable members of the public): _____
_____

SECTION 2. The committee will begin work as soon as practical after the adoption of this resolution to analyze and determine the following:

A. The financial impact on municipal revenues for the ten-year period following adoption of the property tax freeze program;
B. Recommended strategy for implementation and administration of the program in the municipality;
C. Administrative costs for implementation and administration of the program, including but not limited to the cost of necessary revisions or additions to computer software programs for tax billing systems, (tax appraisal systems if performed by the municipality), application systems for qualifying taxpayers, the number and costs, if any, of additional employees required to implement and maintain the program, and any new office space, equipment, and support services required; and
D. Such other information and data as the committee deems relevant to determining the feasibility of implementing the property tax freeze program.

SECTION 3. When the State Board of Equalization has issued final rules and regulations governing the administration of the program, the committee shall develop a final proposal regarding the adoption and implementation of the property tax freeze program and present the proposal to the full legislative body for its consideration. At its discretion, the committee may propose to take no action on the implementation of the tax freeze program.

SECTION 4. In performing its duties under this resolution, the committee may request the assistance of the University of Tennessee's Municipal Technical Advisory Service.

SECTION 5. This resolution shall take effect upon its passage and approval, the public welfare requiring it.

ADOPTED this _____ day of _____, 200_____.

APPROVED:

_____
Mayor

_____
City Recorder/Clerk