

News Release

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Attorney General's opinion clarifies tax exemption for disabled veterans

Attorney General Ken Cuccinelli has issued an opinion clarifying interpretation of new legislation granting a real estate tax exemption to veterans with a 100 percent, permanent and total, service-connected disability. The legislation, enacted by the 2011 General Assembly in response to a constitutional amendment passed by voters in 2010, exempts real estate, including property held jointly by a husband and wife, from taxation provided the veteran meets the specified disability requirements. The exemption applies to the building on the property and up to one acre of land. The veteran must use the property as his or her principal residence.

The Attorney General's opinion, issued July 15, 2011, clarifies the term 100% disability to include veterans rated by the U. S. Department of Veterans Affairs (VA) as individually unemployable due to a service-connected disability. These veterans must be unable to secure or hold gainful employment due to their service-connected disability. Additionally, they must have one service-connected disability ratable at 60 percent or more, or two or more service-connected disabilities with at least one disability ratable at 40 percent or more and with a combined rating of 70 percent or more.

The legislation also grants the exemption to the surviving spouse of an eligible veteran if the veteran died on or after January 1, 2011. The spouse will lose the exemption if he or she remarries or does not occupy the property as his or her primary place of residence. According to the Attorney General's opinion, the way the law was written, the exemption is not retroactive and spouses will not be eligible if the veteran died prior to January 1, 2011.

The Attorney General's opinion also stated that the exemption was not available if the real estate is in a revocable trust with the spouse or others or in an irrevocable trust, and that the exemption is not available to a surviving spouse of an eligible veteran if the spouse relocates.

Opinions issued by the Attorney General do not create new law. However, they represent a legal analysis of current law based on a thorough review of existing law and relevant prior court decisions. To read this opinion from the Attorney General, visit <http://www.vaag.com/Opinions%20and%20Legal%20Resources/Opinions/2011opns/July11opndx.html>.

To apply for the exemption, veterans should contact their local commissioner of the revenue or other designated local government official.

The Virginia Department of Veterans has 20 offices statewide that assist veterans and their families with applying for federal and state veterans benefits. Visit www.virginiaforveterans for the location of a DVS office near you.

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