



TYRONE C. FAHNER

ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. 82-055

REVENUE:
Time Within Which Property
Tax Exemptions Must be Filed

Honorable Thomas J. Difanis
State's Attorney
Champaign County
Court House
Urbana, Illinois 61801

Dear Mr. Difanis:

I have your letter in which you inquire concerning the last date for applying for property tax exemptions granted pursuant to sections 19.1 through 19.20 of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, pars. 500.1 through 500.20). For the reasons hereinafter stated, it is my opinion that application for a property tax exemption may be made at any time prior to the adjournment of the board of review, which, in a county of 100,000 or more inhabitants, occurs not later than December 31 unless more time is necessary to

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complete the board's work. (Ill. Rev. Stat. 1981, ch. 120, par. 588.) Further, the board of review, in its published rules, may establish a deadline for the filing of an application for a property tax exemption, provided that the rule permits a reasonable time for the filing of an application for exemption.

Subsection 108(6) of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 589(6)), which sets forth the procedure for applying for a property tax exemption, provides in part:

"The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation. If the board shall determine that any such property is not liable to taxation and the question as to the liability of such property to taxation has not previously been judicially determined, the decision of the board shall not be final unless approved by the Department;
* * * . In either case, the extension of taxes on any such assessment shall not be delayed by any proceedings under this paragraph, and, in case the property is decided to be exempt, any taxes extended upon such unauthorized assessment shall be abated or, if already paid, shall be refunded."

The above provision does not establish a deadline for the filing of an application with the board of review for a property tax exemption. Therefore, it is apparent that an application for a property tax exemption may be made at any time prior to the adjournment of the board of review.

You state in your letter that you are aware of the deadline established by section 19 of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 500) for the filing of the

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annual certificate of status for the continuation of a claim for exemption. My answer to your questions applies only to the time for filing the initial claims for exemption.

You also ask whether, if the statute contains no deadline for applying for a property tax exemption, the board of review, in its published rules, may require that such applications be made by a certain date. It is my opinion that the board of review, in its published rules, may establish a deadline for the filing of an application for a property tax exemption, provided that the rule permits a reasonable time for the filing of such application.

Section 13 of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 494), provides in pertinent part:

"The county assessor, board of appeals, board of assessors and the boards of review shall make and publish reasonable and proper rules for the guidance of persons doing business with them and for the orderly dispatch of business.

* * *

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(Emphasis added.)

I have discussed above the fact that, since subsection 108(6) of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 589(6)) does not establish a deadline for the filing of an application for a property tax exemption, such an application may be made at any time prior to the adjournment of the board of review. The board of review, however, may, pursuant to the grant of authority quoted above, establish a deadline for the

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filing of an application for a property tax exemption, provided that the rule permits a reasonable time for the filing of an application for exemption. If, for example, the board of review made a rule which established a deadline for the filing of an application for a property tax exemption which was so early that the applicant was not permitted a reasonable time for filing his application, then such a rule would be invalid. A rule of an administrative agency must be reasonable, not arbitrary, or in contravention of express statutory provisions. People ex rel. Polen v. Hoehler (1950), 405 Ill. 322, 327-328.

You also ask whether an applicant for a property tax exemption must file his application by the date on which complaints must be filed pursuant to subsection 108(4) of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 589(4)). Subsection 108(4) provides in part as follows:

"On complaint in writing that any property described in such complaint is incorrectly assessed, the board shall review the assessment, and correct it, as shall appear to be just, * * * . Such complaint to affect the assessment for the current year shall be filed * * * on or before the tenth day of September in counties with 150,000 or more but less than 1,000,000 inhabitants: Provided, that if the assessment books containing the assessment complained of are not filed with the board of review * * * by the 10th day of August in a county with 150,000 or more but less than 1,000,000 inhabitants, then such complaint shall be filed on or before 30 calendar days after the date of publication of the assessment list pursuant to Section 103 of this Act. * * * "

The above provision establishes the procedure and deadline for filing complaints in regard to incorrect assessments, whereas the procedure for filing applications for property tax exemptions is set forth in subsection 108(6) of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 589(6)). Consequently, an applicant for a property tax exemption is not required to file his application by the date set forth in subsection 108(4) (Ill. Rev. Stat. 1981, ch. 120, par. 589(4)).

However, the language of subsection 108(4) which permits the filing of a complaint for a review of an incorrect assessment is broad enough to include the filing of an application for a property tax exemption, which could also be filed pursuant to subsection 108(6). Subsection 108(4) requires that, in counties with a population of 150,000 or more but less than 1,000,000, such as Champaign County, the complaint must be filed on or before September 10. The statute, however, provides that if the assessment books containing the assessment complained of are not filed with the board of review by August 10, the complaint is to be filed on or before 30 calendar days after the date of publication of the assessment list pursuant to section 103 of the Act (Ill. Rev. Stat. 1981, ch. 120, par. 584). It is clear, therefore, that the deadline which is established by a rule of the board of review for filing a property tax exemption could not be earlier than the deadline

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set forth in subsection 108(4).

You also inquire concerning the last dates for filing applications for certain types of homeowner exemptions, which I shall discuss in the order in which those exemptions appear in the statutes.

Section 19.23 of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 500.23) authorizes the exemption of real property up to the assessed value of \$30,000, when that property is owned and used exclusively by a disabled veteran, or the spouse or unremarried surviving spouse of the veteran, as a home. A disabled veteran is defined for the purposes of this section, and annual certification from the Illinois Department of Veterans' Affairs to the Department of Revenue is required to reestablish the exemption. Section 19.23 provides in pertinent part:

"Real property up to the assessed value of \$30,000, when that property is owned and used exclusively by a disabled veteran, or the spouse or unremarried surviving spouse of the veteran as a home.
* * *

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This exemption must be reestablished on an annual basis by certification from the Illinois Department of Veterans' Affairs to the Department."

Although an applicant for an exemption under section 19.23 could apply for this exemption under either subsection 108(6) or subsection 108(4) of the Revenue Act of 1939 (Ill.

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Rev. Stat. 1981, ch. 120, pars. 589(6), 589(4)), neither procedure would be necessary since, under section 19.23, the exemption is established by certification from the Illinois Department of Veterans' Affairs to the Department of Revenue. Since an application for exemption to the board of review is unnecessary under section 19.23, and because the exemption is established by certification from the Illinois Department of Veterans' Affairs to the Department of Revenue, it is my opinion that there is no deadline for the establishment of an exemption under section 19.23 (Ill. Rev. Stat. 1981, ch. 120, par. 500.23).

Section 19.23-1 of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 500.23-1) creates a homestead exemption for persons 65 years of age or older. This section does not establish any deadline for the filing of an application for the property tax exemption in question. Consequently, for the same reasons stated in my answer to your first question, it is my opinion that a person could make an application for the exemption at any time prior to the adjournment of the board of review. Also, for the reasons stated in my answer to your second question, the board of review, in its published rules, may establish a deadline for the filing of an application for this property tax exemption, provided that the rule permits a reasonable time for the filing of an application.

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Section 19.23-1a of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 500.23-1a), which creates an annual homestead exemption, provides in pertinent part:

"An annual homestead exemption limited, except as hereinafter provided with relation to cooperatives, to a reduction in the equalized assessed value of homestead property equal to the increase in such value for 1978 and subsequent years above the equalized assessed value of such property for 1977, up to a maximum of \$1,500 for 1978 and \$3,000 for 1979 and subsequent years.

* * *

In lieu of procedures for exemptions required elsewhere in this Act, the assessor, county assessor, supervisor of assessments or board of assessors may determine the eligibility of residential property to receive the homestead exemption provided by this Section by application, visual inspection, questionnaire or other reasonable methods. Such determination shall be made in accordance with guidelines established by the Department of Revenue."

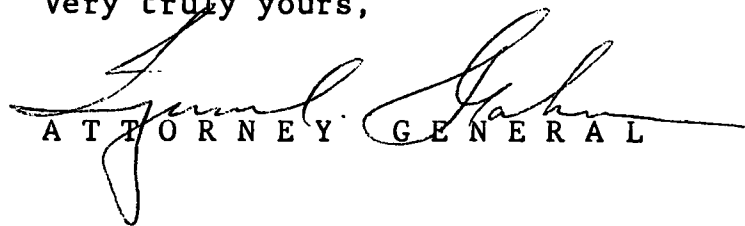
The above language permits, in lieu of the general procedures for exemptions that I have set forth above, the assessor, county assessor, supervisor of assessments or board of assessors to establish its own method of determining eligibility for the exemption in accordance with guidelines of the Department of Revenue. You have advised that, in your county, the principal assessing officer is the supervisor of assessments. Therefore, it is my opinion that your supervisor of assessments, in lieu of the general procedures for exemptions that I have outlined above, may establish his own method of determining eligibility for this exemption in accordance with guidelines of the Department of Revenue.

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Sections 19.23-2 and 19.23-3 of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, pars. 500.23-2, 500.23-3) authorize homestead improvement exemptions. These sections do not establish any deadlines for the filing of an application for these exemptions. For the same reasons stated in my answer to your first question, it is my opinion that a person could make an application for this property tax exemption at any time prior to the adjournment of the board of review. Also, the board of review, in its published rules, may establish a deadline for the filing of an application for these exemptions provided that the rule permits a reasonable time for the filing of an application.

Section 19.23-4 of the Revenue Act of 1939 (Ill. Rev. Stat. 1981, ch. 120, par. 500.23-4) also authorizes a homestead improvement exemption. This section was held to be unconstitutional. (See, Proviso Township High School District No.209 et al. v. Hynes et al. (1980), 84 Ill. 2d 212, 242-243.) Consequently, applications for this exemption may no longer be made.

Very truly yours,


ATTORNEY GENERAL