

CHAPTER 28

TOTAL REAL PROPERTY TAX EXEMPTION FOR PERMANENTLY AND TOTALLY DISABLED WAR VETERANS, SURVIVING SPOUSES OR SURVIVING REGISTERED DOMESTIC PARTNERS OF DISABLED WAR VETERANS, AND SURVIVING SPOUSES OR SURVIVING REGISTERED DOMESTIC PARTNERS OF SERVICEPERSONS

Authority

N.J.S.A. 54:1-2 and 54:4-3.30 et seq.

Source and Effective Date

R.2006 d.326, effective September 18, 2006.
See: 38 N.J.R. 2105(a), 38 N.J.R. 3915(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 28, Total Real Property Tax Exemption for Permanently and Totally Disabled War Veterans, Surviving Spouses or Surviving Registered Domestic Partners of Disabled War Veterans, and Surviving Spouses or Surviving Registered Domestic Partners of Servicepersons, expires on September 18, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 28, Total Real Property Tax Exemption for Permanently and Totally Disabled War Veterans, Surviving Spouses or Surviving Registered Domestic Partners of Disabled War Veterans, and Surviving Spouses or Surviving Registered Domestic Partners of Servicepersons, was adopted as new rules by R.2006 d.326, effective September 18, 2006. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

18:28-1.1 Words and phrases defined

SUBCHAPTER 2. CONDITIONS OF ELIGIBILITY AND QUALIFICATIONS

- 18:28-2.1 Character of disabled veteran's property tax exemption
- 18:28-2.2 Qualifying for the property tax exemption
- 18:28-2.3 Qualifying for the property tax exemption by the surviving spouse or domestic partner of a previously qualified disabled veteran
- 18:28-2.4 Qualifying for the property tax exemption by the surviving spouse or domestic partner of a serviceperson who died while in active service in time of war
- 18:28-2.5 Ineligible surviving spouse or surviving domestic partner
- 18:28-2.6 Branches of the Armed Forces of the United States
- 18:28-2.7 Ineligible service organizations and individuals
- 18:28-2.8 Ineligible discharge
- 18:28-2.9 Eligible Ownership
- 18:28-2.10 Ineligible ownership
- 18:28-2.11 United States Department of Veterans Affairs disability rating
- 18:28-2.12 Continuing the exemption
- 18:28-2.13 Exemption apportioned
- 18:28-2.14 Exemption prorated
- 18:28-2.15 Refunds for prior years
- 18:28-2.16 Exemption in addition to other veteran's deductions
- 18:28-2.17 Special assessments for local improvements
- 18:28-2.18 Appeals

SUBCHAPTER 3. APPLICATION FOR EXEMPTION

- 18:28-3.1 Claims in writing; documentation attached
- 18:28-3.2 Disposition of claims by the assessor
- 18:28-3.3 Documentation in support of claim
- 18:28-3.4 Documentation demonstrating that the property is legally owned
- 18:28-3.5 Documentation in support of surviving spouse/domestic partner
- 18:28-3.6 Documentation in support of disability; death while in active service in time of war
- 18:28-3.7 Assessor review of continuing eligibility
- 18:28-3.8 Assistance to surviving registered domestic partner

SUBCHAPTER 1. DEFINITIONS

18:28-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Active service in time of war" means active service at some time during one of the following periods ("peace-keeping missions" are noted with an asterisk):

<u>Mission</u>	<u>Inception</u>	<u>Termination</u>
Operation Northern/Southern Watch*	August 27, 1992	Effective tax year 2006
Operation Iraqi Freedom*	March 19, 2003	Ongoing
Operation Enduring Freedom*	September 11, 2001	Ongoing
"Joint Endeavor/ Joint Guard" Bosnia and Herzegovina* "Restore Hope" Mission Somalia*	November 20, 1995	June 20, 1998
Operation "Desert Shield/ Desert Storm" Mission* Panama	December 5, 1992	March 31, 1994
Peacekeeping Mission* Grenada	August 2, 1990	February 28, 1991
Peacekeeping Mission* Lebanon	December 20, 1989	January 31, 1990
Peacekeeping Mission* Vietnam Conflict	October 23, 1983	November 21, 1983
Lebanon Crisis of 1958*	September 26, 1982	December 1, 1987
Korean Conflict	December 31, 1960	May 7, 1975
World War II	July 1, 1958	November 1, 1958
World War I	June 23, 1950	January 31, 1955
	September 16, 1940	December 31, 1946
	April 6, 1917	November 11, 1918

1. Peacekeeping missions, as noted above, require a minimum of 14 days service in the actual combat zone, except where service-incurred injury or disability occurs in the combat zone, then actual time served though less than 14 days, is sufficient for purposes of property tax exemption. The 14-day requirement for Bosnia and Herzegovina may be met by service in one or both operations for 14 days continuously or in aggregate. For Bosnia and Herzegovina combat zone also includes the airspace above those nations.

“Armed Forces” means the land, air, and sea forces established by State and Federal laws as applicable.

“Assessor” means the assessor or deputy assessor of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

“Curtilage” means the enclosed space of ground and building immediately surrounding a dwelling house.

“Deceased servicemember” means a citizen and resident of this State who has performed in active service in time of war in a branch of the Armed Forces of the United States and who dies while on active duty.

“Disabled veteran” means any citizen and resident of this State who was honorably discharged or released under honorable circumstances, from active service, in time of war, in any branch of the Armed Forces of the United States, who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected total or 100 percent permanent disability as defined in N.J.S.A. 54:4-3.30.

“Domestic partner” means or refers to the only lawful same sex domestic partner registered under N.J.S.A. 26:8A-1 et seq., of a veteran or servicemember where the property ownership is as joint tenants with right of survivorship.

“Domicile” is any place an individual regards as his permanent home – the place he or she intends to return to after a period of absence. A person has only one domicile, although he or she may have more than one place to live. Domicile, once established, continues until the individual moves to a new location with the intent to make it his or her permanent home and to abandon his or her prior domicile. Moving to a new location for less than 12 months does not change domicile if the clear intent is to return to New Jersey.

“Dwelling house” means any one-family building or structure or any unit of a horizontal property regime established pursuant to the “Horizontal Property Act,” P.L. 1963, c. 168 (N.J.S.A. 46:8A-1 et seq.) or any unit of condominium property established pursuant to the “Condominium Act,” P.L. 1969, c. 257 (N.J.S.A. 46:88-1 et seq.) owned and occupied by a claimant as his or her legal residence in this State, or where a multiple-family building or structure is owned by a claimant, then that portion thereof which is occupied by the claimant as his or her legal residence in this

State, and includes any outhouses or appurtenances belonging thereto or usually enjoyed therewith. See N.J.S.A. 54:4-3.33.

“Exemption” means a total exemption from real property tax payments on a claimant’s dwelling house including the lot and curtilage on which the house is situated. Claimant has the burden of proof to establish the amount of land necessary for the use and fair enjoyment of the real property. Special assessments for local improvements are not exempted.

“Honorably discharged or released under honorable circumstances from active service in time of war” means every form of separation from active, full-time service with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked “dishonorable,” “undesirable,” “bad conduct,” “by sentence of general court martial,” “by sentence of summary court martial” or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the armed forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be honorably discharged.

“Owner of the legal title to property” means sole possession of legal title to the dwelling house for which exemption is claimed or as otherwise provided for in N.J.A.C. 18:28-2.9. In the case of a married couple, the real property owned as tenants by the entirety is deemed wholly owned by the claimant. In the case of domestic partnership ownership as joint tenants with the right of survivorship where the domestic partners are registered pursuant to N.J.S.A. 26:8A-1 et seq., the real property is deemed wholly owned by the claimant.

“Resident” means one legally domiciled in the State of New Jersey. Seasonal or temporary residence in the State, of whatever duration, shall not constitute domicile in the State for purposes of the exemption. Absence from the State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile in the State shall be on the claimants.

“Servicemember” means a citizen and resident of this State who has performed in active service in time of war in a branch of the Armed Forces of the United States and who dies while on active duty.

“Surviving domestic partner” means the lawful surviving registered domestic partner of a disabled veteran or servicemember.

“Surviving spouse” means the lawful surviving wife or husband of a disabled veteran or servicemember.

“Tax year” means the particular calendar year in which the general property tax is due and payable.