Coates' Canons Blog: Residential Exclusions for Co-Owners

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Today, June 1, is the deadline for taxpayers to submit applications for the three primary residential property tax exclusions: elderly & disabled, disabled veteran's, and circuit breaker. (That deadline is not exactly written in stone, however.)

Once the tax office determines that a property qualifies for an exclusion (or the Board of Equalization and Review or the Property Tax Commission makes that decision for them), calculating the exclusion amount is usually simple. The elderly & disabled exclusion reduces the property's tax appraisal by the greater of $25,000 or 50%. The disabled veteran's exclusion eliminates $45,000 in appraised value. The circuit breaker exclusion requires only a bit more math, with property taxes capped at either 4% or 5% of the taxpayer's income.

But when co-owners are involved, these calculations can get complicated. Different owners can participate in different exclusions, requiring tax offices to mix and match exclusion amounts. Here's a short primer on this process.

When may co-owners participate in the three residential exclusions?

Married co-owners: spouses that own property as "tenants by the entirety" are considered one owner (the marital unit). So long as one of the spouses satisfies the age or disability requirements then the marital unit can qualify for a full residential exclusion. For the two exclusions that have an income limitation (the elderly & disabled ("E&D") and circuit breaker ("CB") exclusions), the tax office must consider the combined income of both spouses if they are living together (even if the property is in the name of only one spouse).

For example, assume Michelle and Barak are married. As of January 1, 2016, Michelle is 62 and Barak is 65. Barak qualifies for the disabled veteran's ("DV") exclusion. Their combined 2015 income was $25,000. The couple could qualify for any one of the three residential exclusions because their income is below the E&D limit ($29,500 for the 2016 tax year) and because Barak is 65 and a disabled veteran. It does not matter that Michelle is below the minimum age (65) and not disabled; so long as one spouse qualifies then the marital unit qualifies.

Non-married co-owners: each owner must qualify on his or her own, meaning that each owner must satisfy the age/disability requirement and the income limitation. Income is not combined for non-married co-owners. For the E&D and DV, co-owners can participate in different exclusions. But for the CB exclusion it's all or none; all co-owners must participate in the CB or no co-owners may do so.

For example, assume Huey, Louie, and Dewey Duck are brothers who co-own Parcel A. If they are all over 65, are all disabled veterans, and each of their individual incomes for 2015 was below $29,500, then they each could be eligible for any of the three residential exclusions. For E&D and DV, the brothers could mix and match exclusions; Huey and Louie could be in the E&D and Dewey in the DV, or they could use any other combination of the E&D and the DV. But for the CB, all three brothers must participate or no brother may participate.

How is the exclusion calculated for co-owners in the E&D or DV exclusions?

Married co-owners: the tax office should treat spouses as if they were one owner (the marital unit) and simply apply the standard exclusion amount offered by the program in question. Consider Barak and Michelle again. If they participated in the E&D exclusion, they would receive the full $25,000/50% exclusion despite the fact that Michelle was not old enough to qualify on her own. The marital unit qualified due to Barak's age and should benefit from the full exclusion amount available to any other single owner.

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Non-married co-owners: two basic rules control the exclusion calculations:

1. Each owner's exclusion is limited by that owner's percentage of the property's appraised value. For example, if a taxpayer owns one-third (33%) of a $100,000 property, the maximum exclusion that taxpayer could receive would be $33,333.

2. The total exclusion applied to the property may not exceed the maximum exclusion permitted if the property were owned by a single owner. For example, regardless of the number of owners eligible for the E&D exclusion a $100,000 property may not receive a total exclusion greater than $50,000 because that is the maximum exclusion permitted under that program.

Let's return to the Huey, Louie, and Dewey example from above. Assume the three brothers jointly own Parcel A, the house in which they have resided for decades. All three brothers qualify for the E&D exclusion. Parcel A is appraised at $100,000.

Applying Rule 1, each brother would be eligible for an exclusion of up to $33,333, which is one-third of the property's appraised value. However, adding those three individual exclusions would lead to a total exclusion for Parcel A of $100,000 (the full appraised value). That would violate Rule 2, which limits the property's total exclusion to the maximum permitted under the E&D program, in this case $50,000.

What if two brothers were eligible for the E&D exclusion and one was eligible for the DV exclusion? Same math, same result. Each brother could earn up to a $33,333 exclusion (two from E&D and one from DV), but the property's maximum exclusion would still be $50,000.

What if only two brothers were eligible for the E&D exclusion and the third did not qualify for any exclusion? Same result, $50,000 exclusion. Here's why: each of the two brothers would be eligible for a $33,333 exclusion. But added together that would produce a total exclusion on the property of $66,666, which exceeds the $50,000 maximum. Rule 2 requires that we cap the exclusion at $50,000.

What if only one brother were eligible for the E&D exclusion and the other two did not qualify for any exclusion? Now Parcel A's exclusion would be $33,333, because Rule 1 caps the exclusion for the one brother at his ownership percentage of the property's total value. 33% of $100,000 is $33,333, so that is the maximum exclusion one brother could obtain. Rule 2 would not come into play because the one brother's exclusion of $33,333 does not exceed the maximum permitted under the E&D program.

How is the circuit breaker exclusion calculated for co-owners?

If property is owned by multiple owners, all of those owners must qualify for and participate in the CB exclusion or else none of the owners may do so. (Remember that a married couple counts as one owner, the marital unit.)

If multiple owners participate in the CB exclusion, simply add up each owner's tax cap. That sum is the total cap on taxes on that property for the year. Taxes in excess of that cap are deferred and will become delinquent when the property is transferred or no longer used as a permanent residence.

Assume Huey, Louie and Dewey each made $25,000 last year and each qualifies for the CB. All three choose to participate in the CB for 2016. Each brother falls in the 4% tax cap category, because their incomes are all below the E&D limit of $29,500 for 2016. Each brother therefore has a tax cap of $1,000 (.04 x $25,000). Add together the tax caps for each brother and the sum is $3,000. That figure is the maximum property tax that can be collected on the property for 2016. Any taxes above the $3,000 cap will be deferred.

Should the tax office apportion exclusions and taxes among co-owners?

No. Regardless of how many owners or how many exclusions are involved, it is not the tax office's responsibility to allocate a property's tax bill among co-owners. The tax office should send one bill for each property with one total

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exclusion and one total tax obligation. It is the co-owners' job to figure out how much each co-owner should pay to satisfy that bill.

Links

- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-277.1
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