



COUNTY OF YORK, VIRGINIA

"Where Independence Was Won"

CANDICE D. KELLEY

Treasurer

SARAH K. WEBB

Commissioner of the
Revenue

DATE: June 5, 2024

TO: Mark L. Bellamy, Jr. County Administrator

FROM: Candice D. Kelley, Treasurer and Sarah K. Webb, Commissioner of the Revenue *SKW*

SUBJECT: Potential Refunds

This joint memo from the York County Treasurer and the Commissioner of the Revenue is to advise you about a set of refunds that may be required due to a potential change in guidance issued by the Department of Veterans Services (DVS). Virginia State Code §58.1-3219.5 Exemption from taxes on property for disabled veterans was a Constitutional Amendment that authorized the exemption of real property from taxes when "any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his principal place of residence."

This code became effective as of January 1, 2011. Historically, York County has followed the code section that allows for refunds to cover a period of the current year plus three prior years. All refunds issued due to the Virginia State Code §58.1-3219.5 exemption have been for these periods. Hampton Roads localities generally follow the "current plus three-year period" for these refunds. Virginia Administrative Code §1VAC80-10-90 states "E. While there is no deadline to apply for the exemption, the Commissioner of the Revenue, or assessing official, may only correct and refund (without interest) the past assessments of an initially qualified applicant for no more than the current tax year, plus up to three prior tax years after January 1, 2011." This VAC is now in conflict with the updated guidance posted by DVS.

This update was posted to the DVS website (<https://www.dvs.virginia.gov/benefits/real-estate-tax-exemption>)

UPDATE: POSTED 03/28/2024: Virginia Code § 58.1-3219.7 grants the Department of Veterans Services (DVS) authority to promulgate rules and regulations governing the administration of the real property tax exemption for disabled veterans established by Article X, § 6-A of the Constitution of Virginia. Recently, it has come to DVS's attention that information contained in certain DVS regulations and guidance on this exemption conflicts

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with the law governing the exemption. Specifically, subsection (E) of 1 VAC § 80-10-90 contains a limitation period that conflicts with Code § 58.1-3219.5, the statute implementing the exemption. Additionally, the Attorney General has issued an opinion (No. 16-060) concluding that this tax exemption is not subject to any limitations period. Instead, qualified disabled veterans or their surviving spouses are “entitled to enjoy that tax exemption, beginning on the date of the disability rating, including all prior years back to and including 2011,” when the tax exemption was enacted. Accordingly, DVS is initiating the regulatory process to repeal 1 VAC § 80-10-90(E) and is rescinding any guidance contrary to the OAG opinion.

This update could require York County to issue additional refunds to veterans whom were already issued refunds in some cases. The potential impact is unknown but could easily exceed \$150,000.

The City of Virginia Beach has requested an updated opinion from the Virginia Attorney General. There is also a pending lawsuit in another locality that may create a legal precedent that could affect how far back the refund period should be.

Additionally, there are many opinions on both sides of this matter by Commissioners and Treasurers as well as local government attorneys. We felt it necessary to provide this information in case the Virginia Attorney General and/or the court issue an opinion or ruling that will further dictate what needs to be done in order for York County to plan for additional refunds.