

**Clause 41A: PROPERTY TAX DEFERRAL  
(65 years of age or older)**

**INTRODUCTION**

Unlike an exemption which discharges a tax obligation, Clause 41A permits an elderly taxpayer to delay payment of property taxes which ultimately must be paid to the community upon the death of the taxpayer or sale of the property. Interest charges will accrue. By this statute, which is in effect in every city and town in the Commonwealth, an elderly taxpayer may use resources, which otherwise would go to pay real estate taxes, to defray living expenses. A taxpayer who already receives a personal exemption, ( e.g. Cl. 41C Elderly Persons, Cl. 17D Surviving Spouse, Cl. 22 Veteran, Cl. 37 Blind), is not precluded from seeking to defer the balance.

For eligibility, a qualified applicant must enter into a written tax deferral and recovery agreement with the Woburn Board of Assessors who must cause a lien on the property to be recorded at the Registry of Deeds. Joint owners, remaindermen and/or mortgagees must give prior written approval.

**APPLICATIONS**

Applications must be filed with the Assessors annually, within 3 months of the mailing date of the third quarter tax bills.

**ELIGIBILITY REQUIREMENTS**

An applicant must satisfy tests relating to age, domicile, ownership and occupancy, and gross receipts.

Age -- An applicant must be at least 65 years of age as of July 1 of the tax year.

Domicile -- An applicant must have had a domicile or legal home in Massachusetts for the preceding ten years. He/she must be domiciled as of July 1 in the property which is the subject of the application.

Ownership and Occupancy -- An applicant must have owned and occupied the subject property or other real property in the Commonwealth as a domicile for at least 5 years.

The applicant may own the property jointly with his/her spouse or jointly or as a tenant in common with a person not his/her spouse.

A surviving spouse who qualifies may continue to defer taxes but must enter into a new tax deferral and recovery agreement. A surviving spouse who inherits the property must have occupied it or other real property in Massachusetts as a domicile for 5 years. Any additional taxes plus interest deferred by the surviving spouse together with the amounts previously deferred and unpaid may not exceed 50 percent of the surviving spouse's proportional share of the fair cash value of the property.

The holder of a life estate satisfies the ownership requirement for a tax deferral.

If the domicile is held in a trust, a person can only satisfy the ownership interest if he/she:

1. Is a trustee or co-trustee of that trust, and
2. Possesses a sufficient beneficial interest in the domicile through that trust. (Splitting the interest between multiple trusts does not qualify.)

Gross Receipts -- An applicant's gross receipts from all sources cannot exceed \$40,000. Ordinary business expenses and losses may be deducted but not personal or family expenses.

### **DEFERRAL AMOUNT**

A taxpayer who qualifies may defer payment of all or a portion of the taxes each year at **4 percent interest (NOTE: The City Council has voted a reduction in the interest charged from 8% to 4% for Fiscal Year 2007)**, provided the deferred taxes and accrued interest do not exceed 50 percent of the applicant's proportional share of the fair cash value of the property.

### **DOCUMENTATION**

An applicant for deferral must furnish whatever information is reasonably necessary to determine eligibility under the terms of the statute. For example, the assessors may request:

1. Birth certificate
2. Evidence of domicile, ownership and occupancy
3. Income tax returns

### **PAYMENT**

The payment of taxes and accrued interest is due upon the sale of the property or the death of the taxpayer, if the surviving spouse does not continue to defer. As of that critical date, the interest rate goes up to 16 percent; 6 months thereafter, the treasurer may seek to foreclose the lien on the property if the deferred amount remains unpaid.