



Legal Briefs

What are the eligibility criteria for the property tax deferral for the elderly and disabled?

Under RSA 72:38-a a resident property owner may apply for a tax deferral if the owner:

- Is 65 years old or eligible for disability benefits under Title II or Title XVI of the federal Social Security Act; and
- Has owned the homestead for at least 5 consecutive years if elderly, or 1 year if disabled; and
- Is living in the house

If the applicant has filed a timely application and meets these minimum criteria, the selectmen then are to grant a tax deferral “for all or part of the taxes due . . . if in their opinion the tax liability causes the taxpayer an undue hardship or possible loss of the property.” The statute does not provide any additional criteria for guidance, and the Department of Revenue Administration regulation, Rev 406.02, simply provides as follows: “Criteria for Tax Deferral for Disabled. The applicant shall meet the requirements of RSA 72:38-a to be eligible for a tax deferral for the disabled.” Thus, it is up to the board of selectmen to decide, based on all the circumstances, whether there is “undue hardship or possible loss of the property.” Rev 406.03 (c) lists documents that the selectmen may request from the applicant to help the board make its decision:

- List of assets and their value
- List of net encumbrances and net value
- Statement of income, including that of spouse or civil union partner, such as
 - federal income tax return for preceding year
 - social security income
 - written statement of why income tax not filed
- Income or interest and dividends tax return for preceding year from any state
- Property inventory filed in any other New Hampshire municipality
- For a trust, Form PA-33

If dissatisfied, the applicant may appeal the decision to the Superior Court or Board of Tax and Land Appeals.

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