

QUALIFYING SENIORS

Clause 41
Clause 41B
Clause 41C
Clause 41C1/2

INTRODUCTION

A tax exemption is a discharge from the obligation to pay all or a portion of a tax. Exemptions are conferred by the Legislature on particular categories of persons or property.

Clauses 41, 41B, 41C or 41C1/2 of Section 5 of Chapter 59 provide exemptions to persons 70 years of age or older who satisfy certain whole estate or asset, annual income and residency requirements. Persons 70 or older may, alternatively, qualify for an exemption under Clauses 17, 17C, 17C1/2 or 17D which provide reduced benefits but for which the eligibility requirements are less strict.

Clause 41 was an early Legislative response to the need of the above category of persons for assistance with their tax obligations. It set out original eligibility requirements for the exemption. As property values and income levels rose, however, it became more difficult for persons to satisfy these requirements. Therefore, the Legislature made alternative exemptions (Clause 41B, 41C and 41C1/2) available for cities or towns to accept. Acceptance of Clause 41B or 41C is by town meeting or city council vote. Acceptance of Clause 41C1/2 is by referendum at a regular town or city election. Each alternative has different eligibility requirements. If a city or town has accepted Clause 41B, 41C or 41C1/2, the Clause most recently accepted establishes eligibility rules. If a city or town has not so voted, Clause 41 prevails.

EXEMPTION AMOUNT

The exemption amount for Clause 41, 41B, or 41C is \$500. The exemption amount for Clause 41C may be increased by town meeting or city council vote up to \$1,000. The exemption amount for Clause 41C1/2 is 5% of the average assessed valuation of residential property, but may be increased by town meeting or city council vote up to 20% of that valuation.

APPLICATIONS

Applications for Clause 41, 41B, or 41C must be filed annually with the local assessors in the city or town where the property is located on or before December 15, or 3 months after the actual tax bills are mailed, whichever is later. Applications for Clause 41C1/2 must be filed with the assessors by the earlier abatement application deadline for the fiscal year, which is the same day that the first actual tax payment for the year is due. Filing an application does not entitle the applicant to a delay in tax payment.

DOCUMENTATION

An applicant for an exemption must provide to the assessors whatever information is reasonably required to establish eligibility. This information may include, but is not limited to:

1. Birth Certificates.
2. Evidence of domicile and occupancy.
3. Income tax returns.

ELIGIBILITY REQUIREMENTS

For eligibility, an individual must satisfy requirements relating to (1) age (2) ownership and domicile (3) annual income and (4) whole estate or assets. All eligibility requirements must be met as of July 1 of the tax year.

NUMBER OF EXEMPTIONS

Not more than one exemption may be granted under Clause 41, 41B, 41C, or 41C1/2 on the same parcel of real estate.

AGE

An individual must be (a) 70 years or older or (b) joint owner with a spouse 70 years or older as of July 1 of the tax year. The age for Clause 41C or 41C1/2 may be reduced by town meeting or city council vote to 65.

OWNERSHIP AND DOMICILE

Under Clause 41, an individual must own and occupy the subject property on July 1 of the tax year. Under Clauses 41B, 41C, and 41C1/2, in addition to so owning and occupying the subject property, an individual must have been continuously domiciled in Massachusetts for the 10 years before the application and have owned and occupied the property or any other property in Massachusetts for 5 years. The 10 year continuous domicile requirement for Clause 41C1/2 may be reduced by town meeting or city council vote to 5 years.

1. To satisfy this ownership requirement for Clause 41, 41B or 41C, the person's interest must be worth at least \$4,000. The person may own this interest solely, as a joint owner or as a tenant in common. However, if the person owns the property with someone other than a spouse, the exemption amount is reduced to the proportion of \$500 as the person's ownership interest in the property.
2. For each clause, the holder of a life estate satisfies the ownership requirement.
3. For each clause, if the domicile is held in a trust, a person can only satisfy the ownership interest if he or she:
 - (a) Is a trustee or co-trustee of that trust **and**
 - (b) Possess a sufficient beneficial interest in the domicile through that trust.

INCOME AND ASSET LIMITS

Each clause has different income and asset limits that an applicant must meet each year.

Clause 41

Gross receipts minus social security allowance must be less than:

- ◆ \$6,000 if single
- ◆ \$7,000 if married

Whole estate less the value of the home less any portion that produces income cannot exceed:

- ◆ \$17,000 if single
- ◆ \$20,000 if married

OR

If the home value is included:

- ◆ \$40,000 if single
- ◆ \$45,000 if married

Clause 41B

Gross receipts minus social security allowance must be less than:

- ◆ \$10,000 if single
- ◆ \$12,000 if married

Whole estate less the value of the home less any portion that produces income cannot exceed:

- ◆ \$20,000 if single
- ◆ \$23,000 if married

Clause 41C **(THIS CLAUSE HAS BEEN ADOPTED BY THE TOWN OF DUDLEY)**

Gross receipts minus social security allowance must be less than:

- ◆ \$20,000 if single
- ◆ \$30,000 if married

Whole estate less the value of the home except for the value of any portion that exceeds three dwelling units (or four dwelling units if voted by town meeting or city council) and produces income cannot exceed:

- ◆ \$40,000 if single
- ◆ \$55,000 if married

For Clauses 41, 41B, or 41C, the value of a person's (a) cemetery plots, (b) registered motor vehicles, (c) wearing apparel and (d) household furniture and effects kept at the domicile is excluded from the calculation of the person's whole estate.

For Clauses 41, 41B, or 41C, the gross receipts and whole estate limits is adjusted each year for the increase in the cost of living if Clause 41D has been accepted by town meeting or city council vote.

Clause 41C1/2

Gross receipts must be less than the income limit allowed for a single person who is not the head of a household to qualify for the "circuit breaker" state income tax credit. This limit is adjusted each year for the increase in the cost of living.

Whole estate is unlimited.