

**TAX EXEMPTION
VETERANS – COLD WAR**

LOCAL LAW NO. 12 OF THE YEAR 2010

**A LOCAL LAW AUTHORIZING A REAL PROPERTY TAX
EXEMPTION FOR COLD WAR VETERANS**

Adopted July 6, 2010

Be it enacted by the Town Board of the Town of Kirkwood as follows:

Section 1. Legislative Intent

The Real Property Tax Law of the State of New York was amended by adding a new section 458-b authorizing a real property tax exemption for Cold War Veterans. It is the intention of this Town Board of the Town of Kirkwood by passage of this newly adopted Local Law, to provide the exemptions under Section 458-b of the Real Property Tax Law to eligible persons for purposes of taxes levied by the Town of Kirkwood.

Section 2. Definitions

- (a) “Cold War veteran” means a person, male or female, who served on active duty in the United States armed forces for a period of more than three hundred sixty-five days, during the time period from September second, nineteen hundred forty-five to December twenty-sixth, nineteen hundred ninety-one, was discharged or released therefrom under honorable conditions and has been awarded the Cold War recognition certificate as authorized under Public Law 105-85, the 1998 National Defense Authorization Act.
- (b) “Armed forces” means full-time duty in the United States armed forces, other than active duty for training.
- (c) “Active duty” means full-time duty in the United States armed forces, other than active duty for training.
- (d) “Service connected” means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from, a disability incurred or aggravated, in the line of duty on active military, naval or air service.
- (e) “Qualified owner” means a Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.
- (f) “Qualified residential real property” means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation, and only the remaining portion used exclusively for residential purposes shall be subject to the exemption

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provided by this section. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran; unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization for up to five years.

(g) “Latest state equalization rate” means the latest final equalization rate or special equalization rate established by the state board pursuant to article twelve of the Real Property Tax Law. The state board shall establish a special equalization rate if it finds there has been a material change in the level of assessment since the establishment of the latest state equalization rate, but in no event shall such special equalization rate exceed one hundred. In the event the state equalization rate exceeds one hundred, then the state equalization rate shall be one hundred for the purpose of this local law. When a special equalization rate is established for purposes of this section, the assessor is directed and authorized to recompute the Cold War veterans exemption on the assessment roll by applying the special equalization rate instead of the latest state equalization rate applied to the previous year and to make the appropriate corrections on the assessment roll, notwithstanding the fact that such assessor may receive the special equalization rate after the completion, verification and filing of such final assessment roll. In the event that the assessor does not have custody of the roll when such recomputation is accomplished, the assessor shall certify such recomputation to the local officers having custody and control of such roll, and such local officers are hereby directed and authorized to enter the recommended Cold War veterans exemption certified by the assessor on such roll.

(h) “Latest class ratio” means the latest final class ratio established by the state board pursuant to title one of article twelve of the Real Property Tax Law of the State of New York for use in a special assessing unit as defined in section eighteen hundred one thereof.

Section 3. Exemptions

(a) The Town Board of the Town of Kirkwood adopts this local law to provide that qualifying residential real property shall be exempt from taxation to the extent of fifteen percent (15%) of the assessed value of such property; provided however, that such exemption shall not exceed twelve thousand dollars or the product of twelve thousand dollars multiplied by the latest state equalization rate of the Town of Kirkwood.

(b) In addition to the exemption provided by paragraph (a) of this subdivision, where the Cold War veteran received a compensation rating from the United States Department of Veterans Affairs or from the United States Department of Defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by fifty percent of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed forty thousand dollars, or the product of forty thousand dollars multiplied by the latest state equalization rate for the Town of Kirkwood.

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Section 4. Limitations

(a) The exemption from taxation provided by this subdivision shall be applicable to Town real property taxes, commencing with the March 1, 2011 taxable status date, but shall not be applicable to taxes levied for school purposes or for county purposes unless and until the county adopts a similar local law.

(b) If a Cold War veteran receives the exemption under section four hundred fifty-eight or four hundred fifty-eight-a of the Real Property Tax Law, the Cold War veteran shall not be eligible to receive the exemption under this section.

(c) The exemption provided by paragraph (a) of Section 3 shall be granted for a period of ten years. The commencement of such ten year period shall be governed pursuant to this subparagraph. Where a qualified owner owns qualifying residential real property on the effective date of this section, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this section. Where a qualified owner does not own qualifying residential real property on the effective date of this section, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least sixty days after the date of purchase of qualifying residential real property; provided however, that should the veteran apply for and be granted an exemption on the assessment roll prepared pursuant to a taxable status date occurring within sixty days after the date of purchase of residential real property, such ten year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such ten year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this subdivision for the unexpired portion of the ten year exemption period.

(d) Application for this exemption shall be made by the owner, or all of the owners, of the property on a form prescribed by the state board. The owner or owners shall file the completed form in the assessor's office on or before the first appropriate taxable status date. The exemption shall continue in full force and effect for all appropriate subsequent tax years and the owner or owners of the property shall not be required to refile each year. Any applicant convicted of willfully making any false statement in the application for such exemption shall be subject to the penalties prescribed in the penal law.

(e) This local law may be repealed by the Town Board of the Town of Kirkwood. Such repeal shall occur at least ninety days prior to the Town's taxable status date.

Section 5. Effective Date.

This local law shall take effect immediately upon filing with the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law of the State of New York.