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Attorney General Clarifies That Surviving Spouse of 100% Disabled Veteran Is Entitled To Exemption Under New Law If All Conditions Satisfied

Surviving spouses of disabled veterans who received the residence homestead exemption for 100% disabled veterans prior to January 1, 2012 can still qualify for the full exemption on residential homesteads even though legislation passed by the last session of the Texas Legislature did not become effective until that date, according to a ruling issued by Texas Attorney General Greg Abbott.

This official opinion means that surviving spouses of qualified 100% disabled veterans who were eligible under Statute 11.13 and who died in 2009, 2010, 2011 or current year will be entitled to the exemption for 2012 forward. The El Paso Central Appraisal District will require the surviving spouse to submit, on an annual basis, a current Widows Tax Letter from the VA. This eligibility also requires the surviving spouse to meet all of the other eligibility requirements outlined in state law. A surviving spouse does NOT qualify if the surviving spouse has remarried since the death of the disabled veteran.

The exemption for 100% disabled veterans is provided for in Section 11.131 of the Texas Tax Code, which retroactively took effect on January 1, 2009. The new 2012 law, authored by Harris County Senator Dan Patrick, states that the veteran must have qualified for exemption under subsection (b) of the 2009 law in order for the surviving spouse to be eligible for exemption.

In his opinion, the attorney general stated that "so long as the surviving spouse is on January 1, 2012 a surviving spouse that satisfies the other requirements of subsection 11.131(c), the surviving spouse is eligible for the exemption."

The opinion specifically addressed the question of a disabled veteran's death in 2011 before the law took effect. The attorney general opined that the death of the disabled veteran in 2011, prior to the effective date of the legislation "does not change that result and is relevant to only the determination as to whether the spouse is a surviving spouse under the Tax Code on January 1, 2012," General Abbott concluded.

Please contact the El Paso Central Appraisal District for more details.