Questions & Answers on Tax Deferral

Q1. **What is a tax deferral?**

A1. A tax deferral can protect an elderly, disabled person or disabled veteran from losing a home for nonpayment of taxes. A deferral stops or puts off the payment of delinquent property taxes on a homestead as long as a person continues to own it and live there. Having a tax deferral in place will keep delinquent tax law suits from proceeding and will stop the sale of the property for tax purposes. However, a tax deferral does not cancel taxes due, it only postpones payment. When a homeowner no longer owns the home or stops living there, all unpaid property taxes plus any penalties or interest accrued from the deferral date will be due after a 180 day time period.

Q2. Who qualifies for a tax deferral?

A2. A homeowner who is 65 or older, is legally disabled or a disabled veteran (as qualified under Sec. 11.22) may qualify to defer payment of both current and delinquent taxes on a residence homestead until the individual no longer owns or resides in the home. A person who is at least 65 or older does not also have to be disabled. A disabled person may qualify if less than 65 years of age. To determine if you qualify, file a tax deferral affidavit with the Harris County Appraisal District or the appraisal district in the county where your home is located.

Q3. **When is it appropriate to file a tax deferral?**

A3. It is appropriate to file a Tax Deferral Affidavit when you see this is the best course of action to postpone the collection of taxes, stop a lawsuit to collect delinquent taxes, or prevent a foreclosure sale due to a tax lien. As soon as you are in a position in which your home could be seized for non-payment of taxes you should consider filing for a deferral. Keep in mind there are drawbacks to deferring taxes. Taxes are merely postponed; they are not forgiven.

Q4. **What is the filing procedure?**

A4. First you need to get the form, Tax Deferral Affidavit for Over-65, Disabled Homeowner or Disabled Veteran, form 33.06. It can be found on the Harris County Appraisal District's website, www.hcad.org under the FORMS tab, "Affidavits". You may also pick up a form at the appraisal district office at 13013 Northwest Freeway, Houston, Texas or call the information center line at (713) 957-7800 and request a form be mailed to you. It is important to fill out the form completely and sign it before a Notary Public. If you have questions or need help, please call us at (713) 957-7800.

Q5. **Once I complete the affidavit, do I need to bring it in person or can I mail it?**

A5. You can mail the form along with all appropriate additional documents to:
Harris County Appraisal District, Exemption Center, P.O. Box 922012, Houston, Texas 77292-2012. However, to stop a pending tax sale, you need to deliver the affidavit to the tax collector for the taxing unit that requested the order of sale, or to the attorney representing the taxing unit for collection of the delinquent taxes, and also to the officer charged with selling the property not later than the fifth day before the sale date. You must also provide a copy to the chief appraiser at the above address.

Q6. **Does it make a difference if our house is mortgaged?**

A6. If your property is mortgaged, it is very important to check with your mortgage company about their policy. Deferring taxes might violate the terms of your deed of trust. Many mortgage companies consider the filing of a deferral to be a default of the mortgage requirements. If this is the policy of your mortgage company, filing a tax deferral could trigger an escalation of the mortgage note and lead to foreclosure. Most mortgage companies require tax payments to be current.

Q7. **Can the county, city, school, or another taxing unit foreclose on my home for deferred taxes?**

A7. No, not while the deferral is in place. However, once you no longer own the home or stop living in it, all taxes, penalties, and interest become due after 180 days. Any of the taxing units may proceed with a lawsuit to collect delinquent taxes if the property taxes remain unpaid.

Q8**. Do taxes keep accruing during the deferral period; when do they need to be paid, and how are penalties and interest calculated?**

A8. Property taxes continue accruing during the deferral period, and all unpaid taxes are assessed 5% interest annually; however, once an over-65, disability or Disabled Veteran deferral has been granted, additional charges can't be levied for delinquent tax penalty and interest (other than the 5% interest), and the property cannot be foreclosed upon for unpaid taxes during the deferral period. On or after the 181st day after the deferral or abatement time period has expired, an additional penalty may be imposed and collected if the deferred collection amount remains delinquent.

Q9. What if I sell my house while the taxes are deferred?

A9. The entire amount of deferred taxes plus any accrued penalties and interest will be due at the time of sale. Typically, the title company handling the transaction would deduct this amount from the proceeds due the seller.

Q10. **What happens if I die without paying the deferred taxes?**

A10. If the property is your residence homestead and you have a deferral in place when you die, the deferral will continue in effect for your surviving spouse. It continues for the surviving spouse until the 181st day after the spouse no longer owns or resides in the home. At the time you die, your surviving spouse must be married to you and be at least 55 years of age. The property also had to be your spouse's residence homestead at the time of your death. If these conditions are not met, the entire deferral amount would become a liability of the estate or next property owner.