What is a Property Tax Deferral?

Texas Property Tax Code, Section 33.06, allows a person who has a 65 years of age or older residence homestead exemption or who has a disability residence homestead exemption from the Appraisal District (CAD) to defer the collection of the property taxes owed on their residence homestead.

A property tax deferral, stops collection efforts on the property taxes owed on the residence homestead until the property no longer qualifies as the residence homestead of the person who is 65 years of age or older or disabled.
The deferral does not stop property taxes from being assessed against the homestead property. A tax deferral does not prevent the tax lien from attaching to the homestead property. Similarly, a deferral does not prevent interest from accruing on the unpaid taxes.

Deferred taxes will continue to accumulate against the property with each year's tax assessment. Interest accrues at a rate of 8% per year. Deferred property taxes that remain unpaid will appear as delinquent taxes to the public.

How does a Deferral affect a mortgage?

A property tax deferral is allowed by law for a qualified residence homestead. However, the law does not require a mortgage lender to allow a deferral of property taxes where the lender has loaned money secured by a mortgage lien on the residence homestead.

Some mortgage lenders do not allow tax deferrals because the property tax lien that attaches to the residence homestead to secure payment of any deferred property tax is superior to the mortgage lien. If the mortgage company forecloses on a residence homestead which is the subject of a tax deferral, the mortgage company assumes ownership of the property subject to the tax lien securing payment of the unpaid taxes.

If a mortgage lender does not allow a deferral, the lender may choose to pay the taxes and then increase the monthly mortgage payment to recover the amount of property taxes the lender paid, demand immediate reimbursement in full, or take other appropriate action to remedy any default under the terms of the mortgage including foreclosure.

When a Deferral ends, what happens to the taxes?

A deferral ends when person who qualified the property for the deferral no longer owns the property as their residence homestead. There are two common scenarios where this happens, 1) If a homestead is sold, or 2) If the homestead is inherited after the death of the last surviving qualified person. The deferral also terminates if the qualified person ceases to occupy the property as their residence homestead.

Once the deferral terminates, the deferred taxes and accrued interest must be paid in full on or before the 181st day after the date the qualified person no longer owns and occupies the property as a residence homestead. Penalties are incurred on any deferred taxes which are not paid on or before the 181st day after the date the deferral terminates.

How does a Deferral impact my financial status?

Any deferred property taxes appear on the public records of the tax office as delinquent property taxes. The impact of deferred taxes on your credit rating or financial status will vary significantly from person to person.

§ 33.06. Deferred Collection of Taxes on Residence Homestead of Elderly or Disabled Person

(a) An individual is entitled to defer collection of a tax, abate a suit to collect a delinquent tax, or abate a sale to foreclose a tax lien if the individual:

(1) is 65 years of age or older or is disabled as defined by Section 11.13(m); and

(2) the tax was imposed against property that the individual owns and occupies as a residence homestead.

(b) To obtain a deferral, an individual must file with the chief appraiser for the appraisal district in which the property is located an affidavit stating the facts required to be established by Subsection (a). The chief appraiser shall notify each taxing unit participating in the district of the filing. After an affidavit is filed under this subsection, a taxing unit may not file suit to collect delinquent taxes on the property and the property may not be sold at a sale to foreclose the tax lien until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead.

(c) To obtain an abatement of a pending suit, the individual must file in the court in which suit is pending an affidavit stating the facts required to be established by Subsection (a). If no controverting affidavit is filed by the taxing unit filing suit or if, after a hearing, the court finds the individual is entitled to the deferral, the court shall abate the suit until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. The clerk of the court shall deliver a copy of the judgment abating the suit to the chief appraiser of each appraisal district that appraises the property.

(c–1) To obtain an abatement of a pending sale to foreclose the tax lien, the individual must deliver an affidavit stating the facts required to be established by Subsection (a) to the chief appraiser of each appraisal district that appraises the property, the collector for the taxing unit that requested the order of sale or the attorney representing that unit for the collection of delinquent taxes, and the officer charged with selling the property not later than the fifth day before the date of the sale. After an affidavit is delivered under this subsection, the property may not be sold at a tax sale until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. If property is sold in violation of this section, the property owner may file a motion to set aside the sale under the same cause number and in the same court as a judgment reference in the order of sale. The motion must be filed during the applicable redemption period as set forth in Section 34.21(a) or, if the property is bid off to a taxing entity, on or before the 180th day following the date the taxing unit's deed is filed of record, whichever is later. This right is not transferable to a third party.

(d) A tax lien remains on the property and interest continues to accrue during the period collection of taxes is deferred or abated under this section. The annual interest rate during the deferral or abatement period is eight percent instead of the rate provided by Section 33.01. Interest and penalties that accrued or that were incurred or imposed under Section 33. 01 or 33.07 before the date the individual files the deferral affidavit under Subsection (b) or the date the judgment abating the suit is entered, as applicable, are preserved. A penalty under Section 33.01 is not incurred during a deferral or abatement period. The additional penalty under Section 33.07 may be imposed and collected only if the taxes for which collection is deferred or abated remain delinquent on or after the 181st day after the date the deferral or abatement period expires. A plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of deferral or abatement of collection as provided by this section.

(e) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district or county of the provisions of this section and, specifically, the method by which eligible persons may obtain a deferral or abatement.

(f) Notwithstanding the other provisions of this section, if an individual who qualifies for a deferral or abatement of collection of taxes on property as provided by this section dies, the deferral or abatement continues in effect until the 181st day after the date the surviving spouse of the individual no longer owns and occupies the property as a residence homestead if:
(1) the property was the residence homestead of the deceased spouse when the deceased spouse died;
(2) the surviving spouse was 55 years of age or older when the deceased spouse died; and
(3) the property was the residence homestead of the surviving spouse when the deceased spouse died.