

TITLE: Real Property Tax Exemptions under the Voluntary Action Program

DATE EFFECTIVE: January 2007

HISTORY: Update of VA30000.10.001 - Revision was necessary to reflect changes in the rule citations that became effective in August 2014.

KEYWORDS: Real property tax exemption, tax exemption order, tax exemption revocation, request to rescind tax exemption

RULE/ AUTHORITY: ORC 5709.87 and OAC 3745-300-13(E)(7)(a)

QUESTION 1: What is Ohio EPA's role in the tax exemption process for obtaining a real property tax exemption, pursuant to ORC 5709.87?

ANSWER: Ohio Revised Code ("ORC") 5709.87(B) provides that the Director of Ohio EPA, after issuing a covenant not to sue for a property under ORC 3746.12 and determining that remedies or remedial activities have commenced or been completed at that property to the satisfaction of the Director of Ohio EPA, shall certify to the Tax Commissioner for the Department of Taxation and to the Director of the Department of Development that such a covenant has been issued and such remedies or remedial activities have occurred at that property. The certification is provided in the form of an interoffice memorandum ("tax certification memorandum") from Ohio EPA to the Department of Taxation, Division of Tax Equalization and the Department of Development. Ohio EPA sends the tax certification memorandum by certified mail to facilitate timely review by the Department of Taxation. A courtesy copy of the Director's tax certification memorandum is also mailed to the appropriate county auditor.

Upon delivery of the tax certification memorandum to the Department of Taxation and the Department of Development, Ohio EPA has completed its responsibilities under ORC Section 5709.87.

QUESTION 2: What is the duration of the tax exemption and can it be transferred?

ANSWER: The tax exemption granted under ORC 5709.87 applies for ten (10) tax years, beginning with the tax year the exemption order is issued.

Pursuant to ORC 5709.87(D), the sale or transfer of the NFA property or portion of the NFA property that is eligible for the tax exemption

pursuant to ORC 5709.87(C) does not affect the tax exemption granted.

QUESTION 3: How would revocation of a covenant not to sue impact the property tax exemption?

ANSWER: Pursuant to ORC 5709.87(E), if the Director of Ohio EPA revokes a covenant not to sue for a property for which the Tax Commissioner has granted a tax exemption under 5709.87(C), the Director must notify the Tax Commissioner and the appropriate county and municipal authorities.

QUESTION 4: What if the property owner does not want to receive the tax exemption available under ORC 5709.87?

ANSWER: In accordance with ORC 5709.87(C)(1)(b), the current property owner will have 60 days from the date of receiving the Tax Commissioner's order granting the tax exemption to send written notice to the Tax Commissioner that the property owner does not want the tax exemption to apply to the eligible property.

The ability to rescind the property tax exemption belongs to the current owner of the property at the time the tax exemption order is issued by the Tax Commissioner.

**OHIO EPA
CONTACT:**

For further information regarding this issue, please contact the VAP Staff at (614) 644-2924, or the Legal Office at 614-644-3037.