

1997, 75th Leg., ch. 1293 (S.B. 344), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1411 (H.B. 2383), § 4, effective June 20, 1997; am. Acts 1999, 76th Leg., ch. 138 (H.B. 873), § 4, effective May 18, 1999; am. Acts 2003, 78th Leg., ch. 288 (H.B. 2416), § 1.05, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 288 (H.B. 2416), § 2.05, effective January 1, 2006.

#### NOTES TO DECISIONS

##### Analysis

##### Tax Law

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  - Personal Property Tax
    - Exempt Property
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##### TAX LAW

##### State & Local Taxes

##### Personal Property Tax

##### Exempt Property

**General Overview.** — For-profit school's Tex. Const. art. VIII, § /Aa2(a)'s challenge to Tex. Tax Code Ann. § /Aa11.21(d)(3) and (5) were not meritorious; the Legislature could restrict the statutory exemption authorized by the constitution and the school acknowledged it did not meet the statutory requirements as a qualifying school and was not entitled to the tax exemption. *Ultrasound Tech. Servs. v. Dallas Cent. Appraisal Dist.*, 357 S.W.3d 174, 2011 Tex. App. LEXIS 10192 (Tex. App. Dallas Dec. 30, 2011, no pet.).

A non-profit child development center that cared for infants, toddlers, two-, three-, and four-year olds, and provided after school programs for the school aged children, did not meet the requirements of Tex. Tax Code Ann. § 11.21(a)(2) to qualify for tax-exempt status because it was required to maintain a day care center license due to the age of the children enrolled in its programs, and because custodial care required for that age children was substantial; the center's educational functions were

secondary to its custodial functions and it was not operated exclusively for educational functions. *Circle C Child Dev. Ctr., Inc. v. Travis Cent. Appraisal Dist.*, 981 S.W.2d 483, 1998 Tex. App. LEXIS 7327 (Tex. App. Austin Nov. 30, 1998, no pet.).

University house used as the residence of the president was not exempt from property taxes given the use of the house was not for educational purposes; the appeals court held the house should have been subject to property tax and not given an exemption. *Bexar Appraisal Dist. v. Incarnate Word College*, 824 S.W.2d 295, 1992 Tex. App. LEXIS 689 (Tex. App. San Antonio Jan. 29, 1992, writ denied).

Appellee church's use of undeveloped acreage was reasonably necessary for the operation of its school, in that the acreage was used as part of the students' formal instruction in art, biology, geology, archaeology, and recreation and athletic purposes, and the land was exempt from appellant board's tax assessment under Tex. Tax Prop. Code Ann. § 11.21. *Board of Appraisal Review v. Protestant Episcopal Church Council*, 676 S.W.2d 616, 1984 Tex. App. LEXIS 5689 (Tex. App. Austin June 20, 1984, pet. dismissed w.o.j.).

**REQUIREMENTS FOR EXEMPT STATUS.** — For-profit school's Tex. Const. art. VIII, § /Aa2(a)'s challenge to Tex. Tax Code Ann. § /Aa11.21(d)(3) and (5) were not meritorious; the Legislature could restrict the statutory exemption authorized by the constitution and the school acknowledged it did not meet the statutory requirements as a qualifying school and was not entitled to the tax exemption. *Ultrasound Tech. Servs. v. Dallas Cent. Appraisal Dist.*, 357 S.W.3d 174, 2011 Tex. App. LEXIS 10192 (Tex. App. Dallas Dec. 30, 2011, no pet.).

#### Sec. 11.22. Disabled Veterans.

(a) A disabled veteran is entitled to an exemption from taxation of a portion of the assessed value of a property the veteran owns and designates as provided by Subsection (f) in accordance with the following schedule:

an exemption of up to:	for a disability rating of	but less than:
	at least:	
\$5,000 of the assessed value	10%	30%
7,500	30	50
10,000	50	70
12,000	70 and over	

(b) A disabled veteran is entitled to an exemption from taxation of \$12,000 of the assessed value of a property the veteran owns and designates as provided by Subsection (f) of this section if the veteran:

- (1) is 65 years of age or older and has a disability rating of at least 10 percent;
- (2) is totally blind in one or both eyes; or
- (3) has lost the use of one or more limbs.

(c) If a disabled veteran who is entitled to an exemption by Subsection (a) or (b) of this section dies, the veteran's surviving spouse is entitled to an exemption from taxation of a portion of the assessed value of a property the spouse owns and designates as provided by Subsection (f) of this section. The amount of the exemption is the amount of the veteran's exemption at time of death. The spouse is entitled to an exemption by this subsection only for as long as the spouse remains unmarried. If the spouse does not survive the veteran, each of the veteran's surviving children who is younger than 18 years of age and unmarried is entitled to an exemption from taxation of a portion of the assessed value of a property the child owns and designates as provided by Subsection (f) of this section. The amount of exemption for each eligible child is computed by dividing the amount of the veteran's exemption at time of death by the number of eligible children.

(d) If an individual dies while on active duty as a member of the armed services of the United States:

- (1) the individual's surviving spouse is entitled to an exemption from taxation of \$5,000 of the assessed value of the property the spouse owns and designates as provided by Subsection (f) of this section; and
- (2) each of the individual's surviving children who is younger than 18 years of age and unmarried is entitled to an exemption from taxation of a portion of the assessed value of a property the child owns and designates as provided

by Subsection (f) of this section, the amount of exemption for each eligible child to be computed by dividing \$5,000 by the number of eligible children.

(e) An individual who qualifies for more than one exemption authorized by this section is entitled to aggregate the amounts of the exemptions, except that:

(1) a disabled veteran who qualifies for more than one exemption authorized by Subsections (a) and (b) of this section is entitled to only one exemption but may choose the greatest exemption for which he qualifies; and

(2) an individual who receives an exemption as a surviving spouse of a disabled veteran as provided by Subsection (c) of this section may not receive an exemption as a surviving child as provided by Subsection (c) or (d) of this section.

(f) An individual may receive an exemption to which he is entitled by this section against only one property, which must be the same for every taxing unit in which the individual claims the exemption. If an individual is entitled by Subsection (e) of this section to aggregate the amounts of more than one exemption, he must take the entire aggregated amount against the same property. An individual must designate on his exemption application form the property against which he takes an exemption under this section.

(g) An individual is not entitled to an exemption by this section unless he is a resident of this state.

(h) In this section:

(1) "Child" includes an adopted child or a child born out of wedlock whose paternity has been admitted or has been established in a legal action.

(2) "Disability rating" means a veteran's percentage of disability as certified by the Veterans' Administration or its successor or the branch of the armed services in which the veteran served.

(3) "Disabled veteran" means a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or its successor or the branch of the armed services in which the veteran served and whose disability is service-connected.

(4) "Surviving spouse" means the individual who was married to a disabled veteran or member of the armed services at the time of the veteran's or member's death.

**HISTORY:** Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1980; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 18.002, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1405 (H.B. 3613), § 1(b), effective June 19, 2009.

**NOTES TO DECISIONS**

Analysis

Constitutional Law

•Substantive Due Process

••Scope of Protection

•Equal Protection

••Scope of Protection

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••Legislatures

Tax Law

•State & Local Taxes

••Real Property Tax

•••Exemptions

**CONSTITUTIONAL LAW**

**Substantive Due Process**

**Scope of Protection.** — In a case in which an appraisal district removed the disabled veteran tax exemption from property that married taxpayers owned after discovering that the husband, a 100 percent permanently disabled United States Army veteran, was no longer a Texas resident, there was no due process violation because the husband did not have a constitutionally protected right in the disabled veteran tax exemption. *Seguin v. Bexar Appraisal Dist.*, 373 S.W.3d 699, 2012 Tex. App. LEXIS 3837 (Tex. App. San Antonio May 16, 2012, no pet.).

**EQUAL PROTECTION**

**Scope of Protection.** — Tex. Tax Code Ann. § 11.22(g)'s residency requirement is rationally related to a legitimate governmental purpose. *Seguin v. Bexar Appraisal Dist.*, 373 S.W.3d 699, 2012 Tex. App. LEXIS 3837 (Tex. App. San Antonio May 16, 2012, no pet.).

**GOVERNMENTS**

**State & Territorial Governments**

**Legislatures.** — Texas Legislature had authority to impose Tex. Tax Code Ann. § 11.22(g)'s residency requirement. In enacting § 11.22, the legislature acted within the discretion given to it by the constitution because it did not broaden or enlarge the tax

exemption, but, instead, it limited the exemption to a subset of disabled veterans, which were those who live in Texas. *Seguin v. Bexar Appraisal Dist.*, 373 S.W.3d 699, 2012 Tex. App. LEXIS 3837 (Tex. App. San Antonio May 16, 2012, no pet.).

**TAX LAW**

**State & Local Taxes**

**Real Property Tax**

**Exemptions.** — In order to be entitled to receive the disabled veteran tax exemption, a disabled veteran must meet Tex. Tax Code Ann. § 11.22(g)'s Texas residency requirement. Accordingly, an appraisal district's removal of the disabled veteran tax exemption from property that married taxpayers owned after discovering that the husband, a 100 percent permanently disabled United States Army veteran, was no longer a Texas resident was proper. *Seguin v. Bexar Appraisal Dist.*, 373 S.W.3d 699, 2012 Tex. App. LEXIS 3837 (Tex. App. San Antonio May 16, 2012, no pet.).

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In a case in which the disabled veteran tax exemption was removed from property that married taxpayers owned after