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Changes in the  
90's

Proposed  
Property Tax  
Exemption  
Amendment



# **Proposed Property Tax Exemption Amendment**

At the November 3, 1998 election, Kentucky's voters will be asked whether to amend the state Constitution to allow the General Assembly to exempt items of personal property from taxation and to expand the homestead real property tax exemption for retirees who are totally disabled. This question will appear on the ballot:

## **Constitutional Amendment No. 2**

Are you in favor of amending Section 170 of the Constitution of Kentucky to permit the General Assembly to exempt motor vehicles and any other class of personal property from the levy of all or any portion of the property tax and to extend the homestead property tax exemption to persons who are classified as totally disabled by any public or private retirement system?

## **Constitutional Changes Proposed by the Amendment**

### **Personal Property Tax Exemption**

Personal property, which is any property other than real estate, is divided into two categories: tangible and intangible. Tangible personal property includes many different types of property, such as motor vehicles, watercraft, equipment, machinery, and inventory. Intangible personal property includes annuities, capital stock of banks or cooperatives, brokers' accounts receivable, domestic life insurance, production credit associations, profit-sharing plans, retirement plans, savings and loan

associations, bonds, patents, trademarks, receivables, royalties, and tobacco base allotments. The General Assembly may already exempt personal property from taxation by local taxing districts, such as cities, counties, and school boards. The proposed amendment would permit the General Assembly to provide exemptions from state-levied taxes on personal property.

Current constitutional language requires that all property be subject to taxation unless an exemption is specifically granted in the Constitution. Current language also requires that property subject to taxation be assessed at its fair cash or market value. The proposed amendment of Constitution Section 170 would allow the General Assembly, through the enactment of legislation, to provide an exemption for all or any portion of the state property tax for any class of tangible or intangible personal property. Personal property currently exempted under the Constitution would continue to be exempt.

It should be noted that the proposed amendment does not, by itself, propose to remove the current taxes on any items of personal property. The effect of the proposed amendment, if adopted, would be to allow the General Assembly to provide exemptions by enactment of specific legislation. The General Assembly would not be required to act, but would be empowered to do so, without being subject to current constitutional restrictions.

### **Homestead Property Tax Exemption**

The homestead property tax exemption is a constitutional device under which a portion of the assessed value of a property owner's residence and attached property is exempted from property taxation. The homestead exemption may currently be claimed by property owners 65 years of age or older and property owners, regardless of their age, who are classified as totally disabled under a program of a federal government agency (the Social Security Administration) or the railroad retirement system. To qualify for the exemption, persons with disabilities must also have actually received disability payments, been classified as disabled for the entire taxing year, and have filed a signed statement of disability with the local property valuation administrator prior to December 31 of each year. The

Constitution currently allows an exemption equal to \$6,500 of the property's assessed value. However, the Kentucky Court of Appeals, now the Supreme Court of Kentucky, has ruled that the current exemption amount should equal the purchasing power of \$6,500 when the exemption was initiated as of taxable year 1972. For this reason, the exemption amount for qualifying persons was \$24,400 for the taxable year 1998.

The proposed amendment will not affect those property owners presently benefiting from the homestead exemption. Rather, the proposal would extend exemption benefits to all persons classified as totally disabled under any retirement system, whether it is administered by a state or federal governmental agency or a private employer. Current qualifications for receipt of the exemption noted above must still be met under the proposed amendment.

### **Effective Date**

If the proposed amendment is approved by the voters on November 3, its provisions will take effect immediately. That means that additional disabled retirees who become eligible for the homestead exemption under the expansion of its coverage could claim it for the tax assessment year beginning January 1, 1999. The language authorizing the General Assembly to provide tax exemptions for personal property would immediately become part of the Constitution, but the General Assembly would have to later enact specific property tax exemptions to implement it. If the proposed amendment is defeated, no change will be made in current tax exemptions.

### **State Constitutional History**

Kentucky has adopted four Constitutions since becoming a state, but state involvement in the areas of taxation and finance is almost entirely a creation of the fourth and current Constitution, adopted in 1891. The first two Constitutions, adopted in 1792 and 1799, contained only two provisions on those subjects: a requirement that revenue and appropriations legislation originate in the House of Representatives, and a prohibition against money being drawn from the State Treasury except by lawful appropria-

tion. The third Constitution, adopted in 1850, dealt with revenue and taxation in somewhat greater detail. A prohibition against lending the credit of the Commonwealth was added, a state debt limit of \$500,000 was imposed, a common school fund was established, and a requirement that tax legislation specify the purpose for its enactment was adopted. The 1891 Constitution reflected the growing complexities of governmental taxation and finance, as well as the general wariness of the time, by including substantial restrictions on government tax policy in 20 new constitutional sections on the subject.

Section 3 of the new Constitution provided that no property could be exempt from taxation unless specifically exempted in the Constitution. In recognition of the importance of the significant amount of revenue that would be generated through property taxes, Sections 172 and 174 provided that all property subject to taxation must be assessed on the basis of its fair cash value, that value being the price the property would bring at a voluntary sale. Section 170, as finally adopted, contained only a few property tax exemptions: churches and residences owned by religious societies, the property of institutions of education and public charity, and crops grown in the year of assessment that were in the hands of the producer.

As the restrictive effect of the 1891 constitutional provisions concerning property taxes began to be felt with the passage of time, constitutional amendments to provide more flexibility were submitted to the voters. In 1933, an amendment permitting the legislature, by enactment of legislation, to exempt real and personal property from taxation was proposed, but was defeated by the people. In 1955, an adopted amendment to Section 170 exempted all household goods and kitchen appliances from property taxation. The homestead property tax exemption for Kentuckians 65 years of age or older who owned and occupied single-family residences was created via adoption of a constitutional amendment in 1971. In 1975, that exemption was extended to senior citizens who owned residences other than single-family residences, such as condominiums or duplexes, and it was again extended in 1981 to cover residential property of persons classified as totally disabled under a program of a federal government

agency or the railroad retirement system, if they met other eligibility conditions. A constitutional amendment adopted in 1990 further broadened the religious property tax exemption, by exempting all real property owned and occupied by, and personal property, both tangible and intangible, owned by institutions of religion.

## **On the ballot November 3, 1998:**

### **Constitutional Amendment No. 2**

**Are you in favor of amending Section 170 of the Constitution of Kentucky to permit the General Assembly to exempt motor vehicles and any other class of personal property from the levy of all or any portion of the property tax and to extend the homestead property tax exemption to persons who are classified as totally disabled by any public or private retirement system?**

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