

**DEPARTMENT OF FINANCE
COUNTY OF KAUA'I
REAL PROPERTY TAX DIVISION**

HOME AND RELATED EXEMPTION RULES

**Administrative Rules of the Director of Finance Relating to Home Exemptions and
Related Exemptions under Section 5A-11.4 of the Kaua'i County Code 1987, as
amended**

Section RP-10.1 **Purpose.** These rules implement the provisions of Sec. 5A-11.4 of the Kaua'i County Code 1987, as amended relating to home exemptions and related exemptions. These rules are further intended to ensure that the referenced provisions are applied in a uniform and equitable manner.

Section RP-10.2 **Definitions.** a. As used in these rules:

1. The term "director" shall mean the director of finance or his designee.
2. "Owner" shall be defined as in K.C.C. Sec. 5A-7.1.
3. "Care home" shall mean an adult residential care home, intermediate care facility, skilled nursing facility, acute care facility, assisted living facility, expanded adult residential care home as they are defined in Chapter 321 of the Hawai'i Revised Statutes.
4. The term "temporarily" shall mean less than one year.
5. "Commercial activities" shall mean use of the property to generate income, monetary gain or economic benefit in the form of money or money's worth. Commercial activities shall include, but is not limited to, any income-producing activities, short or long term rental of the property, use of the residential structure as home-office, bed and breakfast operations.
6. "Home exemption" shall mean the exemption as provided in K.C.C. Sec. 5A-11.4(a).
7. "Homestead" shall mean the properties which are used exclusively as the owner's principal residence, and shall refer to one of the tax classifications in Sec. 5A-8.1.

b. Use of gender or number. Words importing the singular number may extend and be applied to several persons or things; words importing the plural may include the singular; and words importing the masculine gender may be applied to females.

Section RP-10.3 **Eligibility for Home Exemption.** An owner is entitled to a home exemption if the following requirements are met:

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1. The property is owned and occupied as the owner's principal home as of the assessment date;

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2. The owner's ownership is recorded at the Bureau of Conveyances in Honolulu on or before December 31 preceding the tax year for which the exemption is claimed;
3. The owner files a claim for the home exemption and submits it to the Real Property Division on or before December 31 preceding the tax year for which the exemption is claimed; and
4. The owner may not hold a homeowner's exemption or claim a principal home on any other property, whether on Kaua'i, in the state of Hawai'i, in another state, or in another country. Possession of multiple homeowners' exemptions for any given tax year shall result in the revocation of all homeowners' exemptions within the County of Kaua'i for those periods in which the multiple homeowners' exemptions were held. Adjustments and rollback taxes due to the loss or denial of an exemption shall be imposed in accordance to K.C.C. Sec. 5A-11.1(e) and 5A-3.4. Property owners may reapply for a homeowner exemption in the tax year following the revocation.

Section RP-10.4 Criteria for determination of "principal" home or residence. In addition to all other applicable requirements of K.C.C. Sec. 5A-11.4 and its implementing administrative rules, the director may rely on the following criteria to determine whether real property is being used as the owner's "principal" home or residence:

1. Amount of time used at this residence, which shall be based on a minimum of 181 calendar days per year;
2. Place of employment;
3. Where other family members reside;
4. The address used for tax returns, driver's license, car and voter registration, bills and correspondence;
5. The location of the owner's banks, religious organizations or recreational clubs;
6. Other uses of property, such as commercial activities, leasing or renting.

In addition, an owner who has temporarily moved into a care home may have his property deemed a "principal" home or residence provided he does not rent the property or permit new individuals (other than immediate family members) to reside at the property and meets all other applicable requirements of K.C.C. Sec. 5A-11.4.

Further, per K.C.C. Sec. 5A-11.4(a)(1)(E), the home exemption shall be applied only to the portion of the property being used exclusively as a home. Should the entire property be rented or used for commercial activities for any amount of time, the property shall not be considered an owner's "principal" home or residence.

Section RP-10.5 Forms. To determine whether an owner qualifies or, if already received, continues to qualify for an exemption pursuant to K.C.C. Sec. 5A-11.4, the director may require an owner to complete a form that requests information relevant to the exemption and/or to produce relevant documents. Should the owner fail to

complete the form entirety or fail to provide the requested documents or fail to respond, the director may refuse to permit the exemption or, if applicable, disallow the exemption. After reviewing the form or documents, the director may require the owner to provide additional information, if the director deems it necessary to determine if the owner qualifies or continues to qualify for the exemption.

All forms shall be due within fifteen days of being mailed to the owner's last known address, unless otherwise provided by law. It is the owner's responsibility to keep the Real Property Division current as to the owner's last known address.

Section RP-10.6 **Effect of Home Exemption.** Once it is determined that an owner is entitled to a home exemption for his property, the owner shall receive the exemption as provided in K.C.C. Sec. 5A-11.4(a). Where a home exemption is a prerequisite to other exemptions or special treatment, an owner may also receive those exemptions or special treatment as permitted in Chapter 5A, if applicable and if the owner meets all other necessary requirements. For example, pursuant to K.C.C. Sec. 5A-11.4(a), home exemptions may be granted to properties that qualify under the criteria for "principal" home or residence (RP-10.4), but which may also have additional uses. However, for the determination of the appropriate tax classification per K.C.C. Sec. 5A-8.1(c)(2) & (4), only those properties that are used *exclusively* as "principal" homes or residences shall qualify for the homestead tax class.

Section RP-10.7 **Appeals.** The owner may appeal any disapproved exemption, or any determination that an exemption has been violated, just as an appeal from an assessment. Appeals shall be governed by applicable sections of Chapter 5A, K.C.C., and may be taken to the board of review or be taken directly to the tax appeal court, without having to appeal to the board of review.

Section RP-10.8 **Severability.** If any provision of these rules, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

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