

COUNTY OF KAUA'I DEPARTMENT OF FINANCE

Pursuant to the authority granted to the Director of Finance under the Kaua'i County Code Section 5A-11.2, the Director proposes to amend the Department of Finance Rules and Regulations as set out below. Portions of existing Rules and Regulations to be deleted are bracketed in bold with strikethrough. Proposed additions to existing Rules and Regulations are underlined and will appear in red. A public hearing on proposed amendments will be held on February 8 via the Microsoft Teams online platform at 5:00 p.m., or soon thereafter.

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]~~ a designee.
 2. "Owner" shall be as defined in K.C.C. Sec. 5A-7.1 ~~[.]~~ and K.C.C. Sec. 5A 1.1.
 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 or money or money's worth at any time during the assessment year. Commercial activities shall include, but ~~[is]~~ are not limited to, any income-producing activities, short or long term ~~[rental]~~ occupancy of the property, use of the residential structure as home-office, or 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 as defined in Section RP-10.4, and shall refer to one of the tax classifications in ~~[Sec. 5A-8.1]~~ Sec. 5A-6.4.
- 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:

1. The property is owned and occupied as of the assessment date;
2. The owner's ownership is recorded at the Bureau of Conveyances in Honolulu on or before ~~[December 31]~~ September 30 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]~~ September 30 preceding the tax year for which the exemption is claimed; [and]

4. The owner files an income tax return as a resident of the State of Hawai'i with a reported address within the County of Kaua'i the year prior to the effective date of the exemption. Non-resident and part-year resident State of Hawai'i income tax returns do not qualify for the home exemption;

~~[4.]~~ 5. 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[.];

6. In the event that a married couple are living separate and apart in the state of Hawai'i, the qualified exemption may be split in half for a maximum period of two years; and

7. Property taxes related to this parcel are considered current. No home exemption shall be allowed if taxes on the property are delinquent unless the taxpayer has entered into a payment agreement with the Director and the taxpayer meets the terms of said agreement.

Section RP-10.4 Criteria for determination of "principal" home or residence. In addition to all other applicable requirements of K.C.C. Sec. ~~[4A-11.4]~~ 5A-11.4 and its implementing administrative rules, the director ~~[may]~~ will rely on the following criteria to determine whether real property is being used as the owner's "principal" home or residence:

1. The address used for Hawai'i residential tax returns, driver's license, car and voter registration, bills and correspondence;
2. Presentation of a valid Hawai'i Driver's License or Hawai'i State ID; and
3. Amount of time used at this residence, which shall be based on a more than ~~[181]~~ 270 calendar days per year (the calendar year shall begin on the date of assessment, October 1, and end on September 30 of the following year).

~~[4. Place of employment;]~~

~~[5. Where other family members reside;]~~

~~[6. The location of the owner's banks religious organizations or recreational clubs;]~~

~~[7. Other uses of property, such as commercial activities, leasing or renting.]~~

In addition, an owner who has temporarily moved into a care home that is licensed in Hawaii may have ~~[his]~~ the owner's 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 K.C.C. Sec. 5A-11.4.

Notwithstanding any law to the contrary, in the event the owner of real property vacates the home for which an exemption is granted and moves to another residence temporarily within the County during the renovation of the home, the real property will continue to be entitled to the exemption contained in this section provided that:

a. The taxpayer submits to the director a change in status report regarding vacating the home during renovations which identifies:

- i. The building permit number issued by the County building division;
- ii. The renovation start date as indicated on the building permit;

- iii. A verifiable address within the County where the taxpayer will reside during the renovation period and where the assessment notices will be mailed; and
- iv. The value attributed to the renovation will reset the assessment cap basis.

~~[Further, per K.C.C. Sec. 5A-1.4(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] entirely** 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 **requested** 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] the** property, the owner shall receive the exemption as provided 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)~~ **6.4(c) & (e)**, only those properties that are used **exclusively** as "principal" homes or residences shall qualify for the homestead tax class. Should the entire property be **[rented] occupied for short-term accommodation** or used for commercial activities **[for any amount of time] at any time during the assessment year**, the property shall not **[be considered an owner's "principal" home or residence] qualify for a homestead tax classification.**

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 section 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 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.