



STATE OF ARKANSAS  
ATTORNEY GENERAL  
LESLIE RUTLEDGE

Opinion No. 2021-053

December 20, 2021

The Honorable Mark H. Berry  
State Representative  
P.O. Box 1205  
Ozark, AR 72949-1205

Dear Representative Berry:

This is in response to your request for an opinion on the following questions relating to homestead property tax credits:

1. May a married couple living separately each claim a homestead property tax credit for their separate residences?
2. May a married couple living separately claim a homestead property tax credit on one residence and a 100% disabled veterans' exemption status on the other residence?
3. Is 100% disabled veteran status considered a homestead property tax credit as mentioned and described in Arkansas Code § 26-26-1119?

You have provided the following background for these questions:

Amendment 79 to the Arkansas Constitution and Arkansas Code § 26-26-1118 established a homestead property tax credit for the homestead of each property owner in the state of Arkansas. Further, Arkansas Code § 26-26-1119 provides that no property owner shall claim more than one homestead property tax credit for each year.

My constituents in Madison County are a married couple that jointly owns two homes and live separately in those two homes. Each

spouse claims his/her home as his/her primary residence. One spouse seeks to claim a homestead property tax credit in his/her residence while the other spouse seeks to claim and receive a 100% disabled veterans' exemption status at the other residence.

## RESPONSE

The answer to each of these questions is “no” under the factual background provided in your correspondence. But with regard to Question 3, the applicable restriction is Ark. Code Ann. § 26-3-306(e).

## DISCUSSION

***Question 1: May a married couple living separately each claim a homestead property tax credit for their separate residences?***

No. Where the couple jointly owns both homes, they may only claim one tax credit.

Amendment 79 to the Arkansas Constitution requires the General Assembly to “provide by law for an annual state credit against ad valorem property tax on a homestead....”<sup>1</sup> The implementing legislation currently provides for an annual homestead property tax credit of \$375:

There is established a homestead property tax credit for each assessment year that reduces the amount of real property taxes assessed on the homestead of each property owner by three hundred seventy-five dollars (\$375).<sup>2</sup>

The implementing legislation also provides that “[n]o property owner shall claim more than one (1) homestead property tax credit for each year.”<sup>3</sup>

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<sup>1</sup> Ark. Const. amend. 79, § 3.

<sup>2</sup> Ark. Code Ann. § 26-26-1118(a)(1)(A) (Repl. 2020).

<sup>3</sup> Ark. Code Ann. § 26-26-1119(a)(1) (Repl. 2020). *See also* Ark. Code Ann. § 26-26-1118(b)(4)(C) (“Under no circumstances may a property owner claim more than one (1) homestead property tax credit per calendar year.”).

“Homestead” is defined in pertinent part as “the dwelling of a person that is used as his or her principal place of residence....”<sup>4</sup> The implementing legislation further defines “property owner” in relevant part as “a person who is ... [t]he owner of record of real property....”<sup>5</sup>

Thus, a property owner, i.e., the record owner (for the purposes of your inquiry) may claim the homestead tax credit only with respect to a principal place of residence. And no record owner may claim more than one homestead credit. In the case of a married couple that jointly owns two residences, each spouse presumably is a record owner of each residence. Consequently, once a homestead tax credit is claimed for one of the residences, each spouse will be precluded by operation of subdivisions 26-26-1119(a)(1) and 26-26-1118(b)(4)(C)<sup>6</sup> from claiming the credit for any other property they jointly own.<sup>7</sup>

***Question 2: May a married couple living separately claim a homestead property tax credit on one residence and a 100% disabled veterans exemption status on the other residence?***

No. Where the married couple jointly owns each residence and each spouse is a record owner of each residence, the couple may not claim both. The disabled veteran’s homestead tax exemption statute—Ark. Code Ann. § 26-3-306—provides that “[a] person claiming the property tax exemption authorized by this section shall not be entitled to claim the property tax credit authorized in § 26-26-1118.”<sup>8</sup> As noted above, section 26-26-1118 provides for the general, annual \$375 homestead tax credit authorized by Amendment 79.

The homestead property tax credit is, therefore, unavailable to a disabled veteran claiming the disabled veteran’s exemption. Under the facts you have presented, the disabled veteran would necessarily be claiming the homestead credit on the other, jointly owned residence, contrary to subsection 26-3-306(e).

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<sup>4</sup> Ark. Code Ann. § 26-26-1122(a)(2)(A) (Repl. 2020).

<sup>5</sup> *Id.* at § 26-26-1122(a)(5)(A)(i).

<sup>6</sup> *See supra* n.3 and accompanying text.

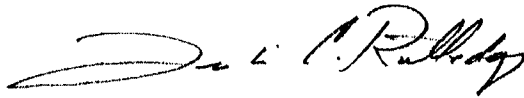
<sup>7</sup> This opinion does not address the situation in which each spouse owns his or her own separate property claimed as a homestead.

<sup>8</sup> Ark. Code Ann. § 26-3-306(e) (Repl. 2020).

***Question 3: Is 100% disabled veteran status considered a homestead property tax credit as mentioned and described in Arkansas Code § 26-26-1119?***

No. But the applicable restriction under the factual background for your questions is Ark. Code Ann. § 26-3-306(e). As explained in response to Question 2 above, that statute makes the homestead property tax credit under section 26-26-1118 unavailable to a disabled veteran claiming the exemption under subdivision 26-3-306(a)(1)(A).

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Rutledge", written in a cursive style.

LESLIE RUTLEDGE  
Attorney General