

**WISCONSIN DEPARTMENT OF REVENUE  
DIVISION OF INCOME, SALES, AND EXCISE TAX**

**NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

**SUBMITTING PUBLIC COMMENTS**

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

**DEADLINE FOR SUBMISSION**

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

<b>Document Number</b>	<b>Document Title</b>
<b>100215</b>	Veterans and Surviving Spouses Property Tax Credit - Property Taxes - Common Questions

State of Wisconsin  
Department of Revenue

## Veterans and Surviving Spouses Property Tax Credit - Property Taxes

**This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.**

1. I was verified by the Wisconsin Department of Veterans Affairs (WDVA) on September 1, as qualifying for the credit for 2019. Can I claim all of the property taxes I paid on my principal residence during 2019 or only the taxes paid after September 1?
2. My spouse and I are both veterans. Both of us qualify for the credit independently of the other. How should we claim the credit?
3. My spouse and I are both veterans. Each of us qualifies for the credit independently of the other. We jointly own two properties; one is a principal residence and the other is a vacation home. Can my spouse claim the credit for taxes paid on one property and I claim the credit for taxes paid on the other property?
4. If I am eligible for the credit, is there a limit on the amount of property taxes that can be claimed?
5. My property tax bill may include charges for other items such as a special assessment for sidewalks, water main replacement, curb/gutter, driveway apron repair/replacement, interest, and charges for services. Can the credit be claimed on the amount paid during the year for these items?
6. My principal residence is part of a farm. Can I use the entire amount of my property taxes for the credit?
7. I own a duplex. I live in one-half of the duplex and rent the other half. Can I claim the property taxes on the entire duplex for the credit?
8. I was verified by WDVA for the credit in 2013. I sold my home in 2019. Can I still claim the credit for 2019?
9. I am a disabled veteran and qualify for the credit. May I claim the credit if my principal residence has been transferred to a trust?

10. I have a life estate in property that I use as my principal residence. May I claim the credit based on the life estate?
11. I rent my principal dwelling and am required to pay the property taxes. May I claim the credit?
12. I own my home with others, but I pay all of the property taxes. My spouse and I are the only ones that live in the home. May I claim all of the property taxes?

1. **I was verified by the Wisconsin Department of Veterans Affairs (WDVA) on September 1, as qualifying for the credit for 2019. Can I claim all of the property taxes I paid on my principal residence during 2019 or only the taxes paid after September 1?**

You may claim all property taxes paid on your principal residence during 2019. This includes property taxes on the principal residence and the land surrounding it, but not to exceed one acre, that is reasonably necessary for use of the residence as a principal residence.

2. **My spouse and I are both veterans. Both of us qualify for the credit independently of the other. How should we claim the credit?**

You may claim the credit on a joint return or on separate returns. Assuming you reside in the same principal residence, on a joint return you claim a credit for the amount of property taxes paid on that principal residence during the year and the land surrounding it, but not to exceed one acre, that is reasonably necessary for the use of the residence as a principal residence. If you file separate returns and the property is owned by the spouses as joint tenants or tenants in common or as marital property, each spouse may claim the credit based on his or her ownership percentage (generally one-half).

3. **My spouse and I are both veterans. Each of us qualifies for the credit independently of the other. We jointly own two properties; one is a principal residence and the other is a vacation home. Can my spouse claim the credit for taxes paid on one property and I claim the credit for taxes paid on the other property?**

No credit is available for taxes paid on a vacation home. The credit may only be claimed for taxes paid on the principal residence.

4. **If I am eligible for the credit, is there a limit on the amount of property taxes that can be claimed?**

The credit is based on property taxes paid on the principal residence during the year and the land surrounding it, but not to exceed one acre, that is reasonably necessary for the use of the residence as a principal residence. There is no limit on the amount that may be claimed.

The taxes may be prior year taxes or current year taxes. The only requirement is that they were **paid** during the year for which the credit is claimed and that the property was your principal residence.

For example, you claim the veterans and surviving spouses property tax credit on your 2019 return. The property taxes which are eligible for purposes of computing the credit are those which are paid during the period of January 1, 2019, through December 31, 2019.

5. **My property tax bill may include charges for other items such as a special assessment for sidewalks, water main replacement, curb/gutter, driveway apron repair/replacement, interest, and charges for services. Can the credit be claimed on the amount paid during the year for these items?**

No. The credit is based only on property taxes paid on the principal residence, exclusive of special assessments, delinquent interest, and charges for service.

6. **My principal residence is part of a farm. Can I use the entire amount of my property taxes for the credit?**

No. You can use only the portion of your property taxes that are allocable to your principal residence and the land surrounding it, but not to exceed one acre, that is reasonably necessary for the use of the residence as a principal residence. The portion of the property taxes that is properly includable as a trade or business expense cannot be used for the credit.

7. **I own a duplex. I live in one-half of the duplex and rent the other half. Can I claim the property taxes on the entire duplex for the credit?**

No. You may use only the portion of the property taxes that is allocable to the portion of the duplex that is your principal residence. For example, if both halves of the duplex are of equal size, you may use one-half of the property taxes paid on the duplex during the year for the credit.

8. **I was verified by WDVA for the credit in 2013. I sold my home in 2019. Can I still claim the credit for 2019?**

Yes. If you sold your principal residence during the year, the "property taxes" for the seller and buyer are the amount of the taxes prorated to each in the closing agreement pertaining to the sale. If the taxes are not prorated in the closing agreement, the tax is to be prorated between the seller and buyer in proportion to months of their respective ownership.

9. **I am a disabled veteran and qualify for the credit. May I claim the credit if my principal residence has been transferred to a trust?**

There are two broad classifications of trusts, (1) "testamentary" and (2) "inter vivos" or "living." A living trust may be either "revocable" or "irrevocable." Title to property in a trust is held by the trust, not by the beneficiary. If a qualified veteran holds a life estate in the property, the veteran may claim the real estate taxes paid by the veteran for the veterans and surviving spouses property tax credit. If the veteran created the trust and reserved the right to revoke the trust, the veteran may claim the real estate taxes paid by the veteran for the credit.

10. **I have a life estate in property that I use as my principal residence. May I claim the credit based on the life estate?**

Yes, if you are an eligible veteran or an eligible unremarried surviving spouse and have a life estate in the property used as your principal residence, you may claim the credit based on the amount of property taxes you paid on that property.

The life estate must be in writing and incorporated in the warranty deed or other legal document. It must be signed and dated by both the person allowing the life estate and the person receiving it. If the property tax bill does not show your name as having a life estate, you must submit a copy of the document showing the life estate, in addition to a copy of the property tax bill and proof of your payment.

*Example:*

A disabled veteran and his son reside in the same home. Prior to the year of the claim, the veteran transferred the property to his son by quit claim deed but retained a life estate in the property. The veteran pays the property taxes, but the property tax bill comes in the son's name.

If otherwise qualified, the veteran may file a claim for the veteran's and surviving spouses property tax credit based on the amount of property taxes paid by the veteran during the year. The veteran must include a copy of the life estate, the property tax bill, and proof of payment with his return.

**11. I rent my principal dwelling and am required to pay the property taxes. May I claim the credit?**

If you did not own your principal dwelling but were required to pay the property taxes as rent, you may claim the credit based on the property taxes paid during the year if **all** of the following are met:

- The rental unit must be the principal dwelling of the eligible veteran or surviving spouse
- The principal dwelling must be located in Wisconsin
- The eligible veteran or surviving spouse is required to pay the property taxes under the rental agreement or other written agreement entered into with the landlord
- The eligible veteran or surviving spouse must pay the property taxes directly to the municipality

A copy of the agreement with the landlord and proof of payment to the municipality must be included with the Wisconsin income tax return.

**12. I own my home with others, but I pay all of the property taxes. My spouse and I are the only ones that live in the home. May I claim all of the property taxes?**

You may only claim the portion of property taxes that matches your and your spouse's percentage of ownership in the home. If you are tenants in common, you would use the ownership percentage you and your spouse have in your home, which may be found on your tenancy in common agreement.

If you are joint tenants, you would divide by the number of owners to figure your percentage. For example, if you and your spouse own the home with one other individual, you would take 1 divided by 3, or 33.33% ownership for each joint tenant. Therefore, you and your spouse would own 66.67% of the home. If you paid \$3,000 in property taxes for the year, you would be able to claim \$2,000 of property taxes for the veterans and surviving spouses property tax credit.

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of October 22, 2019: Sections 71.07(6e) and 73.03, Wis. Stats.

Laws enacted and in effect after October 22, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to October 22, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

### FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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