

Ruling 94-04

Vermont Department of Taxes

Date: May 6, 1994

Written By: Mary L. Bachman, Attorney for the Department

Approved By: Joyce H. Errecart, Commissioner of Taxes

On behalf of the member cooperatives of the [Housing Federation], you have requested a legal opinion on whether tenant stockholders of cooperative housing corporations are eligible for Vermont property tax rebates. Your request is being treated as a formal ruling request. This ruling is limited to members of the [Cooperative] and relies upon the information contained in that organization's articles of association.

[Cooperative] is a limited equity housing cooperative organized and governed under the Vermont Cooperative Housing Ownership Act (11 V.S.A. § 1581 et seq.) and specifically under 11 V.S.A. § 1598 (limited equity cooperatives) for the public purpose of providing and preserving housing for persons and households of low and moderate income. The Cooperative is the legal owner of the property known as [Name]. The Cooperative is owned by its membership. A membership interest confers an exclusive right of possession of a housing unit pursuant to and subject to the terms of a proprietary lease.

Under Title 32, Chapter 153 a credit equal to the amount by which the property taxes upon an individual's homestead for the taxable year exceeds a specified percentage of the individual's household income for the taxable year is allowed against individual income tax. 32 V.S.A. § 5967. "Homestead" is defined as "the dwelling, situated within the state of Vermont, owned or rented by the claimant..." 32 V.S.A. § 5961(2). The Cooperative, not its individual members, own the property. The right to possession of the units derives from membership in the cooperative, not independently from a lease. It is not necessary, however, to determine whether members would be regarded as lessees for purposes of the property tax rebate program, because the legislature has acted specifically with regard to members of cooperative housing corporations. 11 V.S.A. § 1608 provides: "Members of cooperative housing corporations shall be eligible to apply for and receive tax credits as homeowners under 32 V.S.A. chapter 153, subject to the conditions of eligibility set forth therein."

Thus, members of the Cooperative who occupy the cooperative owned housing units as their dwelling and who meet the other requirements of the program, including the household income requirements, are eligible for property tax relief under Title 32, Chapter 153.

This ruling is issued solely to your firm and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.