

BEFORE THE IOWA DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF

CHRIS E CULLEN
1610 BIES DR
DUBUQUE, IA 52002-5110

PROPERTY TAX

REFUSAL TO ISSUE
DECLARATORY ORDER

DOCKET NO. 845851

Pursuant to a Petition for Declaratory Order (“Petition”) filed with the Iowa Department of Revenue (“Department”) by Chris E. Cullen (“Cullen” or “Petitioner”) on February 11, 2025, and in accordance with Iowa Code section 17A.9 (2025) and Iowa Administrative Code rule 701—7.24(17A)¹ (2025), the Director issues the following order.

I. FACTS

The findings of fact are based on the Petition. Petitioner is a 100% disabled veteran living in Iowa. Pet. for Declaratory Order, p.1 (Feb. 11, 2025) (hereinafter “Petition”). He purchased a house in Dubuque, Iowa on March 15th, 2024.² *Id.* For the purposes of this Order, the Department assumes that the Petitioner applied for and was awarded the disabled veteran tax credit under Iowa Code section 425.15. The Petitioner states he was told by the Dubuque City assessor that he will pay taxes on the property until the fall of 2025, at which point the disabled veteran tax credit will apply to the taxes assessed on the homestead. *Id.* The Petitioner filed this Petition for Declaratory Order to allege that the Dubuque City assessor is incorrectly applying the disabled veteran property tax credit.

¹ Effective March 26, 2025, the administrative rule on the declaratory order process currently stated in Iowa Administrative Code rule 701—7.24 will be moved to Iowa Administrative Code rule 701—4.7. Throughout this Order, the Department will cite to the rules as they were at the time the Petition was received.

² It is unclear what stage of the real estate transaction had occurred by this date.

II. ISSUE PRESENTED

Whether the disabled veteran property tax credit awarded under Iowa Code section 425.15 should have been applied to property taxes on the homestead at the time the Petitioner purchased the property.

III. STANDARD OF REVIEW

Iowa's Administrative Procedure Act ("IAPA") was enacted "to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public." Iowa Code § 17A.1(2). Under the IAPA, "[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency." *Id.* § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *Id.* § 17A.9(8). Pursuant to Iowa Code section 17A.9(2), the Department adopted Iowa Administrative Code rule 701—7.24, which outlines department-specific rules governing declaratory orders.

The purpose of a declaratory order is to provide a "generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances." *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 647 (2013) (citing Arthur Earl Bonfield, Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government, 1–8 (1998)). Declaratory orders are not contested cases that "entitle[] parties affected by the agency action to an adversarial hearing" in order to "adjudicate disputed facts pertaining to particular individuals in specific circumstances." *Greenwood Manor v. Iowa Dep't of Pub. Health, State Health Facilities Council*, 641 N.W.2d 823, 834 (Iowa 2002); see also Iowa Code § 17A.12. Instead, the IAPA "contemplates declaratory

rulings by administrative agencies on purely hypothetical sets of facts.” *City of Des Moines v. Pub. Emp’t Relations Bd.*, 275 N.W.2d 753, 758 (Iowa 1979).

As such, “[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly.” *Bennett v. Iowa Dep’t of Nat. Res.*, 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have “the same status and binding effect as any final order issued in a contested case proceeding.” Iowa Code § 17A.9(7). The Department’s rules governing declaratory orders are consistent with this understanding of the role of declaratory orders in administrative procedure. See Iowa Admin. Code r. 701—7.24.

IV. APPLICABLE LAW

The disabled veteran tax credit is set forth in Iowa Code section 425.15, which provides that if a claimant who qualifies for the homestead credit under Iowa Code chapter 425, subchapter I also meets the definition of a disabled veteran described in section 425.15(1)(a), (b), or (c), “the credit allowed on the homestead from the homestead credit fund shall be the entire amount of the tax levied on the homestead. . .” Iowa Code § 425.15(1). In other words, in order to receive the disabled veteran tax credit, the claimant must qualify for the homestead tax credit in addition to being one of the persons described in Iowa Code section 425.15(1).

A claimant applies for the disabled veteran tax credit by filing the Disabled Veteran Homestead application with the local assessor by July 1 of the assessment year for which the person is claiming the credit. *Id.* § 425.2(1). Taxes for an assessment year become due and payable in September of the following calendar year and March of the next proceeding calendar year. *Id.* § 445.37(1)(a). For example, a claim timely filed by July 1,

2024 applies to taxes assessed for the 2024 assessment year. Taxes assessed for the 2024 assessment year are due by September 30, 2025 and March 31, 2026. *Id.* Therefore, a successful claimant filing for the credit for the first time before July 1, 2024, will receive the credit against taxes payable in September of 2025 and March of 2026.

The titleholder to a property is responsible for timely paying property taxes. *Id.* § 445.5(1). Therefore, in the above example, if a claimant held title to the property before the March 2025 payment, the claimant would be responsible for that payment regardless of eligibility for the disabled veteran tax credit applicable to assessment year 2024 for taxes payable in September of 2025 and March of 2026. The Department is aware that it is common practice for a seller to provide a credit to the buyer for the seller's use of the property for which property taxes will come due after closing when a real estate transaction occurs.

V. DISCUSSION

When the Department receives a petition for a declaratory order, it is required to issue an order “unless the agency determines that issuance of the order under the circumstances would be contrary to a rule adopted in accordance with [Iowa Code section 17A.9(2)].” *Id.* § 17A.9(1)(b)(1). Under the Department's rule adopted pursuant to Iowa Code section 17A.9, the Director refuses to issue a declaratory order in response to the Petition for the following reasons:

(5) The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter;

...

(8) The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct, in an effort to establish the effect of that conduct or to challenge a department decision already made.

Iowa Admin. Code r. 701—7.24(9)“a”(5), (8).

First, the Department can refuse to issue a declaratory order when “the questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.” *Id.* r. 701—7.24(9)“a”(5).

As stated above, a claimant has until July 1 of the assessment year to submit the Disabled Veteran Homestead application to the local assessor. Iowa Code § 425.2(1). Once the local assessor receives the application, they will recommend allowance or disallowance of the credit, and forward the applications to the county auditor. *Id.* § 425.3(3). The county auditor must then forward the claims to the board of supervisors, who will allow or disallow the claims. *Id.* § 425.3(4). If a claim is disallowed, the claimant “may appeal from the action of the board of supervisors to the district court of the county in which said claimed homestead is situated by giving written notice of such appeal to the county auditor of said county within twenty days from the date of mailing of notice of such action by the board of supervisors.” Iowa Code § 425.7(1). The statutes set forth the process by which a disabled veteran credit claim is allowed or disallowed. Each step of the process takes place with the local jurisdiction. The role the Department plays is one of oversight and disallowing credits and exemptions that should not have been granted by the board of supervisors. See *id.* §§ 421.17(2) and 425.7(3). If the Petitioner has a complaint about the application of his credit, the proper avenue for complaint is with the local jurisdiction. Petitioning the Department for a declaratory order is not the proper mechanism to resolve this matter.

The Department may also refuse to issue a declaratory order when the petition is “based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.” Iowa Admin. Code r. 701—7.24(9)“a”(8).

In the present matter, Petitioner purchased the property on March 15, 2024. Petitioner timely filed an application for the disabled veteran tax credit. Petitioner claims that he should have received the disabled veteran tax credit starting from the date he took possession of the property. Rather than being “based upon facts calculated to aid in the planning of future conduct,” the issue stated in the Petition is based upon an action already taken by the Petitioner. An answer issued by the Department on this matter would not provide information that the Petitioner could act on in order to aid in the planning of future conduct to resolve his issue. Therefore, issuing a declaratory order is not the proper action in this instance.

VI. CONCLUSION

For the reasons stated above, the Director declines to issue a Declaratory Order.

Issued at Des Moines, Iowa this 7th day of April, 2025.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman
Mary Mosiman, Director