

Apr 12, 1993

To: All Property Appraisers

From: John R. Everton, Director, Division of Ad valorem Tax

Re: Homestead Exemption; Apportionment Between Joint Owners

Section 196.031, Florida Statutes

Rule 12D-7.012, Florida Administrative Code

This bulletin is to advise all property appraisers of the position of the Department of Revenue with respect to apportionment of a homestead exemption between or among the joint owners of property determined to be eligible for that exemption.

The statutory basis for such apportionment is provided by section 196.031(1), Florida Statutes, as implemented by Rule 12D-7.012, Florida Administrative Code.

Referring to the joint ownership of homestead property, section 196.031(1), F.S., provides "Such title may be held by the entireties, jointly, or in common with others, and the exemption may be apportioned among such of the owners as shall reside thereon, as their respective interests shall appear; but no such exemption of more than \$5,000 shall be allowed to any one person or on any one dwelling house... nor shall the amount of the exemption allowed any person exceed the proportionate assessed valuation based on the interest owned by such person". It is effectively provided by Rule 12D-7.012, F.A.C., that no individual, family unit, or residential unit shall be entitled to more than one homestead exemption; that property held jointly will support multiple claims for homestead exemption; and that where two or more joint owners occupy the same residential unit, a single homestead exemption shall be apportioned among the owners as their interests may appear.

Opinions by the Florida Attorney General indicate that the value of the apportioned exemption is to be measured by the value of the real estate which is assessable to the owner-claimant. In 70 AGO 154, the attorney general held that a divorced wife who continued to live in the family home was entitled to claim a \$5,000 homestead exemption for the one-half interest which she owned. In 70 AGO 54, it was held that each individual owner of a one half interest in the entire parcel was entitled to a \$5,000 homestead exemption. One of five tenants in common of a parcel assessed at \$25,000 who maintained a permanent home on the property was held to be entitled to a homestead exemption of \$5,000, one fifth of the assessed valuation in 71 AGO 38. In 71 AGO 269, the attorney general opined that provided all homestead conditions were met, including a separate residential unit for each co-owner, each owner of an undivided interest in real estate may be entitled to a full homestead exemption to the extent of the value of his interest.

Accordingly, it is the position of the Department of Revenue that the occupying joint tenant, as his or her respective interest appears, may be entitled to the maximum \$25,000 homestead exemption permitted by current Florida law, provided all other necessary homestead requirements are established to the satisfaction of the property appraiser, including the existence of a separate residential unit for each co-owner who resides on the property.

For example, where only one co-owner resides on the property, if the interest of the occupying joint owner in a \$50,000 subject property is less than fifty percent, or if the occupying owner owns a one-half interest and the subject property is assessed at less than \$50,000, then the occupying owner would not be entitled to the full exemption and would receive an exemption in the amount of his proportionate share of the property. A joint tenant owning a one half interest in a parcel valued at \$40,000 would be entitled to a homestead exemption of \$20,000, if he or she met all other homestead requirements, and if he or she resided in a residential unit in which no other co-owner resided.

Finally, where joint owners share the same residential unit,

they must split a single homestead exemption in proportion to their interests.

If there are questions regarding the apportionment of homestead exemptions, please contact Stephen Keller, Office of General Counsel at (904) 488-0712 or Barney Finberg, Bureau of Analysis and Evaluation at (904) 488-9483.