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DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: 12D-8.0064 RULE TITLE: Assessments; Correcting Errors in Assessments of a Homestead

PURPOSE AND EFFECT: The proposed amendments to this rule reflect law changes requiring property appraisers to include additional information in the notice to any property owner who has received an ad valorem tax exemption or limitation to which the owner is not entitled.

SUMMARY: The proposed amendments implement statutory amendments that provide the procedure for calculating liens on portions of homestead property as described in Section 193.155(10), F.S., relating to the assessment increase limitation, Section 193.703(7), F.S., relating to parent or grandparent living quarters, Section 196.075(9), F.S., relating to the homestead exemption for persons 65 and older, and Sections 196.011(9), F.S., and 196.161(1)(b), F.S., relating to the homestead exemption. These statutes were amended by

Chapter 2024-158, L.O.F., Sections 4, 7, 9, 11, 12 and 17, to set forth new procedures beginning in 2025 in certain circumstances where property improperly received one of the previously listed exemptions or assessment limitations. The amendments also require property appraisers to provide a property owner with notice of the reason why the owner is not entitled to an exemption, assessment limitation, or reduction in assessment and how back taxes, interest, and penalties due are calculated.

The proposed amendments also implement the Florida Supreme Court's order upholding the Third DCA's opinion and the Monroe County circuit court in the Russell vs. Hassett case, 373 So.3d 1242 (2023), applying the ten percent assessment increase limitation to the property appraiser's retroactive homestead revocation liens. The proposed amendments also provide that when property improperly receives a homestead exemption or limitation, the property must be reassessed at just value before it can receive the benefit of the ten percent limitation in subsequent tax years.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for a SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 195.027(1) FS.

LAW IMPLEMENTED: 193.011, 193.023, 193.155, 193.1554, 193.1555, 193.703, 196.011, 196.075, 196.161 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: January 15, 2025 at 10:00 a.m.

PLACE: Room 1250, Building 2, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee, FL 32399.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Mike Cotton at (850)617-8870. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Cotton, Property Tax Oversight Program, telephone (850)617-8870 or email DORPTO@floridarevenue.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-8.0064 Assessments; Correcting Errors in Assessments of a Homestead.

(1) through (2) No change.

(3) This subsection provides the procedure for calculating liens on portions of homestead property as described in Section 193.155(10), F.S., relating to the assessment increase limitation, Section 193.703(7), F.S., relating to parent or grandparent living quarters, Section 196.075(9), F.S., relating to the homestead exemption for persons 65 and older, and Sections 196.011(9), F.S., and 196.161(1)(b), F.S., relating to the homestead exemption shall apply where the property appraiser determines that a person who was not entitled to the homestead exemption or the homestead property assessment increase limitation was granted it for any year or years within the prior 10 years.

(a) Clerical Mistakes and Omissions. The property appraiser shall take the following actions:

1. For tax years prior to 2025, if the homestead exemption or homestead property assessment increase limitation or assessment reduction was improperly granted as a result of a clerical mistake or omission, the person or entity improperly receiving the homestead exemption, limitation, or assessment reduction is subject to back taxes but may not be assessed penalties or interest. Serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county in the amount of the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest on the unpaid taxes per year. The owner of the property must be given the opportunity to pay the taxes and any applicable penalties and interest within 30 days. If the homestead exemption or the homestead property assessment increase limitation was improperly granted as a result of a clerical mistake or omission, the person or entity improperly receiving the property assessment limitation may not be assessed penalties or interest.

~~2. For tax years beginning in 2025, if a property owner receives a homestead exemption, limitation, or assessment reduction as a result of a property appraiser's clerical mistake or omission and voluntarily discloses the error to the property appraiser before the property appraiser notifies the property owner of the error, no back taxes are due. Record in the public records of the county a notice of tax lien against any property owned by this person in the county and identify all property included in this notice of tax lien.~~

~~3. For tax years beginning in 2025, if a property owner receives a homestead exemption, limitation, or assessment reduction as a result of a property appraiser's clerical mistake or omission and does not voluntarily disclose the error to the property appraiser before the property appraiser notifies the property owner of the error, back taxes are due for any year or years, beginning in 2025, within 5 years before the notification of the error. The property appraiser shall correct the rolls to disallow the exemption and the homestead assessment increase limitation for any years to which the owner was not entitled to either.~~

~~(b) Other Errors or Causes. Where the notice is served by U.S. mail or by certified mail, the 30-day period shall be calculated from the date the notice was postmarked.~~

~~1. If a property owner receives a homestead exemption, limitation, or assessment reduction for a reason other than for a clerical error or omission by the property appraiser for any year or years within the prior 10 years, back taxes are due in the amount of the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes per year and 15 percent interest on the unpaid taxes per year.~~

~~2. Where a person entitled to the homestead exemption inadvertently receives the homestead property assessment increase limitation pursuant to Section 193.155(10), F.S., following a change of ownership, the person is not required to pay the unpaid taxes, penalty and interest.~~

~~(c) In the case of the homestead exemption, the unpaid taxes shall be the taxes on the amount of the exemption which the person received but to which the person was not entitled. Where a person is improperly granted a homestead exemption due to a clerical mistake or omission by the property appraiser, the lien shall include the unpaid taxes but not penalty and interest.~~

~~(d) In the case of the homestead property assessment increase limitation, the unpaid taxes shall be the taxes on the amount of the difference between the assessed value and the just value for each year. Where a person entitled to the homestead exemption inadvertently receives the homestead property assessment increase limitation following a change of ownership, the person shall not be required to pay the unpaid taxes, penalty and interest.~~

~~(e) The amounts determined under paragraphs (c) and (d),~~

~~shall be added together and entered on the notice of intent and on the notice of lien.~~

~~(4) For the homestead property assessment increase limitation, to determine the assessed value as corrected and calculate the unpaid taxes, the property appraiser must apply the following provisions, as applicable, providing for non homestead assessments:~~

~~(a) apply the assessed value as limited by Section 193.1554 or 193.1555, F.S., or~~

~~(b) apply the just value for each year~~

~~1. in a year in which the homestead was initially removed, or~~

~~2. in a year following a change of ownership under Section 193.155, F.S., or~~

~~3. in a year following a change of ownership or control under Section 193.1554 or Section 193.1555, F.S., or~~

~~4. in a year following a qualifying improvement under Section 193.1555, F.S.~~

~~(5) In the case of the homestead exemptions, including the exemption relating to persons 65 and older, the unpaid taxes are the taxes on the amount of the exemption which the person received but to which the person was not entitled.~~

~~(6) In the case of the assessment reduction for parents or grandparents, the unpaid taxes are taxes on the difference between the assessed value after the reduction was applied and the assessed value as corrected without the reduction for each year.~~

~~(7) The amounts determined under subsections (4), (5), and (6), must be added together and entered on the notice of intent and on the notice of lien.~~

~~(8) This subsection outlines the procedure for providing property owners notice, for providing property owners an opportunity to pay, and for recording the lien once the property appraiser determines a homestead exemption, homestead assessment increase limitation, or homestead assessment reduction was improperly received. The property appraiser must take the following actions:~~

~~(a) Serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county in the amount of the unpaid taxes, plus any applicable penalties of 50 percent of the unpaid taxes for each year and any applicable 15 percent interest on the unpaid taxes per year. The property appraiser must include with such notice information explaining why the owner is not entitled to the exemption, limitation, or assessment reduction, the years for which unpaid taxes are due, and the manner in which unpaid taxes have been calculated. The owner of the property must be given the opportunity to pay the taxes and any applicable penalties and interest within 30 days.~~

~~(b) Where the notice is served by U.S. mail or by certified mail, the 30-day period is calculated from the date the notice~~

was postmarked.

(c) If the amounts are not paid, record in the public records of the county a notice of tax lien against any property owned by this person in the county and identify all property included in this notice of tax lien.

(d) The property appraiser must correct the rolls for any year in which the exemption, the homestead assessment increase limitation, or assessment reduction, was improperly received.

Rulemaking Authority 195.027(1) FS. Law Implemented 193.011, 193.023, 193.155, 193.1554, 193.1555, 193.703, 196.011, 196.075, 196.161 FS. History—New 12-27-94, Amended 12-28-95, 9-19-17, 6-14-22,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mike Cotton
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 2024
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 20, 2024

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