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Florida's "Save Our Homes" Benefit, The Ability to Transfer The Benefit to a New Homestead and the Impact of The Save Our Homes Portability Due to the Current Depreciation in Florida Real Estate Values

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When the Florida constitution was amended in 1992, a provision was adopted that limited ad valorem taxation on Florida homestead property. The constitutional amendment is codified in Section 193.155, Florida Statutes. The purpose of the provision was to protect Florida residents from being priced out of their homes due to increasing market values and thus, increasing real estate taxes, also known as ad valorem taxes. Although Florida does not have a State income tax, Floridians have struggled with being able to afford increases in real estate taxes and property owners insurance.

Effective in 1993, the increase of the assessed value of homestead property was restricted to the lesser of 3% of the prior year's assessed value or the percentage change in the Consumer Price Index. This constitutional amendment is referred to as the Save our Homes amendment.

The result of Save Our Homes, along with rising housing prices, was that Florida residents were reluctant to sell their home and purchase a new home because a change of ownership triggered re-assessment of the new property. This resulted in a higher real estate tax assessment in most cases.

With the recent housing crisis and downturn in the economy, Florida homeowners were even more reluctant to sell their home and purchase a new home. At a time when change was truly needed, portability of the Save Our Homes benefit was enacted. Below is a summary of the Save Our Homes benefit and explanation of the portability of such, effective as of 2007.

What is "Save Our Homes"?

Homestead property is property a Florida resident owns and maintains as his or her permanent and primary residence. Because the value of all Florida real property is re-assessed as of the 1st of January every year, the Save Our Homes protection has been of great benefit to Florida homeowners. A consequence of this protection, however, has been that homeowners have become reluctant to purchase new homes due to the loss of the Save Our Homes tax savings on their existing homestead property.

As stated above, Save Our Homes, as codified in Florida Statutes Section 193.155, Save Our Homes provides that the assessed value of homestead property will not increase more than 3% or the percentage change in the Consumer Price Index, whichever is less.

Prior to the Save Our Homes Benefit being portable, when a homestead property was sold, the Save Our Homes assessed value would return to market value the year following the sale. The new market value assessment became the base value for Save Our Homes purposes for the new owner. Real estate taxes on the property sometimes doubled or tripled due to the loss of homestead tax exemption for the first year and would remain higher. A homeowner purchasing a new home and losing the Save Our Homes Benefit on the prior home incurred a large increase in real estate taxes.

Now that the Save Our Homes benefit is portable, homestead property owners can transfer some or all of their current home’s Save Our Home’s benefit to their new home. However, a homeowner must apply to transfer this benefit. So what does this mean for homeowners?

If you purchase a new homestead:

Starting from 2007, you can transfer the Save Our Home’s (“SOH”) protection to a new home if you had the homestead exemption on your prior house in either of the two preceding years. This allows the property owner to retain the benefits of a reduced assessed value when changing permanent residences. The maximum amount that can be ported is $500,000. Portability benefits homeowners moving to a more valuable home and homeowners moving to a smaller home.

If you move from your current homestead to a new homestead and the just value of the new homestead is higher than your previous homestead, the assessed value of your new homestead will be the just value of the new homestead minus an amount equal to the lesser of (i) $500,000 or (ii) the difference between the just value and the assessed value of the prior homestead.

Here is an example if you purchase a new home with a higher just value:

You currently own homestead property with a just value of $250,000 and an assessed value of $200,000, thereby providing a $50,000 assessment difference. You then purchase a new homestead property with a just value of $300,000. Because the assessment difference on the previous homestead is $50,000, the new homestead assessed value is $250,000.

If the new homestead has a just value less than your previous homestead, the assessed value of your new homestead will be equal to the just value of the new homestead divided by the just value of the prior homestead, multiplied by the assessed value of the prior homestead. However, if this calculation is greater than $500,000, the assessed value of your new homestead will be increased so that the difference between the just value and assessed value equals $500,000.

Here is an example if you purchase a new home with a lower just value:

You currently own homestead property with a just value of $250,000 and assessed value of $200,000, thereby providing a $50,000 assessment difference. If the just value of the new homestead property is $210,000, the assessment difference of $42,000 will reduce the assessed value of the new home to $168,000 and is calculated is as follows: $50,000 (previous assessment difference) divided by $250,000 (just value of previous homestead) multiplied by $210,000 (just value of new homestead) = $42,000.

Documentation Required:

Documentation is required to apply for the homestead exemption and to transfer a SOH benefit to a new homestead. The deadline to file this documentation is **March 1st** following the year of the new purchase. The documents required are:

1. Form DR-501T, Transfer of Homestead Assessment Difference, to be filed in the County where the new home is located; and,
2. Form DR-501, Application for Ad Valorem Tax Exemption, to be filed in County where new home is located to obtain homestead exemption on new homestead.

If the old homestead is in a different county, the DR-501T form will be sent to the previous County by the new county property appraiser’s office and that property appraiser will complete the Form DR-501R by providing details of the previous homestead. This allows the new county property appraiser’s office to calculate the correct Save Our Homes transfer amount.

Unique Scenarios: The above information explains the application of the Save Our Homes portability under standard situations. Of course, there are unique situations that will need to be considered when calculating the SOH benefit.

Divorce: Portability of the Save Our Homes benefit should be addressed in divorce settlement negotiations. If one spouse remains in the marital homestead property and other spouse purchases a new home, no portion of the SOH protection may be transferred because the previous homestead must be re-assessed as of 1/1 of the year in which the immediate prior homestead was abandoned. The year in which the spouse moved out of the marital homestead is the year that person abandoned the homestead and thus, the value must be re-assessed 1/1 of the following year. Unless the spouse who remains in the marital homestead sells the house within two years of the other spouse abandoning the homestead, the spouse that moved is not able to claim any portion of the SOH benefit on a new homestead property.

Percentage Ownership: The homestead property is owned with percentage shares of ownership clearly stated on deed (i.e. to 30% to John Doe, a single man, and 70% to Mary Jones, a single woman). Then all owners abandon the property and one previous owner purchases a new homestead. In this situation, the transfer of the SOH benefit is calculated by multiplying the difference by the percentage of ownership in the prior homestead. So John Doe would receive a SOH benefit of 30% of the difference of the previous homestead. If, however, the percentage shares of ownership are not clearly stated on the deed, the SOH benefit is calculated by dividing the difference of the prior homestead by the number of owners of the prior homestead who received a homestead exemption.

Two Separate Prior Homesteads: If two people previously owned separate homesteads and then purchase a new homestead jointly, the highest difference between the assessed value and market value of the prior homestead property may be transferred, subject to the $500,000 maximum and downsizing provisions.

There are many other situations that are treated differently with respect to the SOH portability, such as property with an agricultural exemption in addition to the homestead exemption or if two people held title to the previous homestead but only one of those people holds title to the new homestead, to name a few. It is recommended that legal counsel be consulted regarding the transfer of the Save Our Homes benefit.

Impact of Portability of Save Our Homes Benefit on Governmental Agencies Due to Current Depreciation in Florida Real Estate Values.

Prior to the downturn in the economy and the housing market crisis in Florida, some argued portability of the Save Our Homes benefit would shift the tax burden from homestead property owners to non-homestead property owners and decrease tax revenues. But, as previously stated, prior to the Save Our Homes benefit being adopted in 1992, homeowners were reluctant to purchase a new home due to the change of ownership triggering re-assessment of the new property. The enactment of Save Our Homes stimulated the Florida real estate market.

Although the Save Our Homes benefit was most always discussed in the context of capping the real estate tax for a homeowner due to the value of the property increasing on a yearly basis. The depreciation in value has raised the question of what value is used to calculate the Save Our Homes cap when the homestead value has decreased and then subsequently increased.

Here is an example:

Year 1 the property is purchased and the assessed value is $400,000.

Year 2 the assessed value is $200,000.

Year 3 the assessed value is $250,000. What amount will real estate taxes calculated   for Year 3?

Answer: The 3% Save Our Homes limitation is based upon Year 2’s assessed value of $200,000.

Although Save Our Homes was enacted to protect homeowners from rising real estate values, it is not helping homeowners continue to afford their homes by limiting their real estate tax bill in these economic times.

And for homeowners that are fortunate to be in a fair financial situation and with this being a buyer’s market, the Save Our Homes portability is a great motivation for them to purchase a new home. As a result, the portability of the Save Our Homes benefit will stimulate the market, motivate Floridians to purchase new homes and assist in the housing market recovery.