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PROPERTY TAX REFORM IN FLORIDA: AMENDMENT 1 & PORTABILITY

WHAT IS AMENDMENT 1?

Amendment 1 was created by the Florida Legislature in an attempt to lower the amount of property taxes that Floridians pay, while simultaneously giving a boost to the real estate market. The Amendment passed solidly, with approval from 65% of the voters.

The Amendment contains four elements, not all of which relate to personal residences:

- For homestead properties - Portability of the Save Our Homes benefit;
- Also for homestead properties - Creation of an additional \$25,000 homestead exemption;
- For landlords and business owners - Approval of a \$25,000 exemption from tangible personal property taxes; and
- For non-homestead properties - Passage of a 10% limitation on annual assessment increases, starting in 2009.

This Newsletter will describe the first part of Amendment 1 — Portability. Look for more information on Amendment 1's other provisions in our next newsletter or, to get information sooner, please give us a call.

HOW DOES AMENDMENT 1 AFFECT HOMESTEAD?

The basic, existing homestead exemption that Floridians are familiar with reduces the taxable value of homestead properties (i.e., primary residences) by \$25,000.

Homestead properties also qualify for Save Our Homes treatment under Amendment 10, passed in 1992. The Save Our Homes (SOH) Amendment limits increases in a homestead's assessed value to no more than 3% over the prior year's assessed value *or* the percentage change in the Consumer Price Index, whichever is less.

Over time, the SOH Amendment can create significant savings as the difference increases between a home's (uncapped) market value and its (capped) assessed value. Before Amendment 1, however, these savings could not be carried over to new homes (i.e., they were not “portable”).

Under Amendment 1, homeowners can now transfer the SOH benefit they have accrued over the years on their homesteads. Homeowners who have owned the same home for a significant time since 1992, and who feared not being able to pay the increased taxes that a new home purchase would have caused under the old system, will benefit the most from Amendment 1.

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HOW DOES PORTABILITY WORK?

Under the old system, some people felt trapped in their homes – unable to move because it could mean a large tax increase as a result of losing the SOH benefit that had been built up on their homestead over time, as the SOH Amendment continued to limit annual increases in their home’s assessed value.

Amendment 1 lets homeowners take their accumulated SOH benefit with them when they sell their current homestead, as long as they apply it to a new homestead within 2 years. Homeowners don’t even have to sell their old house – just transfer their homestead status anywhere within Florida. Here is how the cap works:

Step 1: Calculate the Amount of Your Current SOH Benefit

The amount of the SOH benefit that a homeowner has accumulated is determined by calculating the difference between the current home’s fair market value (sometimes referred to as “just value”)—as determined by the Property Appraiser, and the home’s assessed value, which should be lower as a result of the yearly 3% SOH cap on assessment increases.

Example: If your home has a market (or just) value of \$440,000 according to the Property Appraiser, and an assessed value of \$280,000, then you have a total SOH benefit of \$160,000 (\$440,000 less \$280,000).

Step 2: Determine How Much of Your SOH Benefit You Can Transfer

Depending on the price of your new home, you can transfer all or a portion of your SOH benefit to the new home. (There is a maximum amount of \$500,000 in SOH benefit that can be transferred.)

Here is how the transfer applies to a new homestead:

If you are upsizing—if the sales price (market value) of your new home is equal to or more than your old home’s market value—you simply transfer the full amount of your SOH benefit.

Examples:

	Market Value (MV)	SOH Benefit	Assessed Value (MV–SOH Benefit)	Est. Taxable Value after Exemptions*
1. Old Homestead	\$440,000	\$160,000	\$280,000	\$230,000
New Homestead	\$500,000	\$160,000	\$340,000	\$290,000
2. Old Homestead	\$200,000	\$97,000	\$103,000	\$53,000
New Homestead	\$250,000	\$97,000	\$153,000	\$103,00

* Taxable value, shown in the last column, is determined by taking a home’s Assessed Value and subtracting: (1) the original \$25,000 homestead exemption (described on Page 1); and (2) the new, additional \$25,000 homestead exemption created by Amendment 1. This second exemption, however, does not apply to taxes levied by your local school district.



If you are downsizing—if the sales price (market value) of your new home is less than your old home’s market value—you will be able to transfer only a percentage of your SOH benefit to your new home.

The percentage you can transfer is calculated by dividing the amount of your current SOH benefit by the market value of your current home. Once this percentage is determined, multiply the market value of your new home by this percentage to calculate the amount of the transferred SOH benefit that you will be able to deduct from your new home’s market value.

Examples:

Old Homestead

Market Value (MV)	Assessed Value (AV)	SOH Benefit (MV—AV)	SOH Percentage (SOH÷MV)	Est. Taxable Value after Exemptions*
\$440,000	\$280,000	\$160,000	36.36%	\$230,000

Application to New Homestead

If New Market Value Is:	Amount of SOH Benefit Transferable	New Assessed Value (MV—Transferable SOH)	Est. Taxable Value after Exemptions*
\$325,000	\$325,000 x 36.36% = \$118,170	\$206,830	\$156,830
\$200,000	\$200,000 x 36.36% = \$72,720	\$127,280	\$77,280

* Again, taxable value is calculated by subtracting the \$50,000 in homestead exemptions from the assessed value.



HOW DO I APPLY FOR THIS PORTABILITY BENEFIT?

Homeowners need to complete two separate forms: one to register your new home for the homestead exemption, and one to transfer the Save Our Homes benefit from your old home. Both of these required forms should be available from your county’s Property Appraiser’s office.

Manatee County: 915 4th Avenue West, Bradenton, FL 34205; (941) 748-2808; manateepao.com

Sarasota County: 2001 Adams Lane, Sarasota, FL 34237; (941) 861-8200; sarasotaproperty.net

If you are transferring your homestead from one county to another, you will need to complete a third form (also available through your Property Appraiser’s office), in which the appraiser of the county that you are moving from certifies the amount of your SOH benefit to the appraiser of the county that you are moving to.

Did you know:



You must register your new homestead with your local Property Appraiser’s office by March 1st of the year in which you want to start receiving your homestead benefit. If you miss this deadline, you will not get the benefits of homestead status—either the Save Our Homes cap or the two \$25,000 exemptions—until the following year.



ARE THERE ANY SPECIAL CIRCUMSTANCES OR EXCEPTIONS I SHOULD BE AWARE OF?

Yes. Here are some of the most common portability issues that homeowners should consider:

If two or more people own multiple homesteads and move in together, they can transfer the benefit from only one of their former homes. Also, if two or more people own one homestead and split up, the Save Our Homes benefit is divided between the two new homesteads; *but* if even one person remains in the old homestead, there can be no transfer of benefit for the one(s) moving out.

Also, be aware that something called “recapture” can *decrease* the amount of your Save Our Homes benefit in real estate markets - like this one - where home prices are decreasing. Recapture occurs when your home’s market value goes down, but your assessed value goes up.

This recapture is possible because the Property Appraiser may continue, by law, to increase your assessed value in accordance with the 3% cap, even when market value goes down, as long as the capped assessed value remains less than or equal to your home’s market value. Since the amount of your SOH benefit is calculated by subtracting your home’s (capped) assessed value from its (uncapped) market value, when your assessed value increases and your market value decreases, the amount of your SOH benefit is reduced.

Example:

	Market Value (MV) Decreases	Assessed Value (AV) Increases by 3%	SOH Benefit (MV–AV)
2007	\$380,000	\$203,775	\$176,225
2008	\$300,000	\$209,888	\$90,112



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BARNES WALKER, CHARTERED,

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