

Practice Update

Florida Homestead Exemption Audits are Big Business

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Florida Property Appraisers, primarily in the populated coastal counties, are combing the nation for taxpayers availing themselves of any other resident related benefit in addition to their Florida Homestead Exemption. The Property Appraisers have ramped up their Homestead Exemption audit units which are producing millions of dollars in back taxes, penalties and interest. Property Appraisers are working through two programs: tax management consultants working in tandem with Lexis Nexis and local investigations.

Property Appraisers contract with property tax management consulting firms on a contingent fee basis to mine the Lexis Nexis personal information databases covering over 340,000,000 people in the United States. The Lexis Nexis databases include such information as Primary and Secondary residences (assessing records), Voter registration records, Department of Motor Vehicle licenses and vehicle registrations, Vital Statistic (death) records, Court records (divorce decrees and Marriage Separation Agreements). Property Appraisers provide their consulting firms all the taxpayer identification information for county Homestead Exemption recipients. The consultants electronically mine the Lexis Nexis databases for matches in all 50

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states (including Florida) and the District of Columbia. All matching taxpayers are then sent audit letters presenting the matched information requesting explanations. In one Florida county's latest effort during a recent 15-month period, 98,000 Homestead Exception accounts were provided to the consultant. The data bases produced 2,600 suspect matches. From that group, the consultant recommended 1,100 audits to be completed by the Property Appraiser's audit unit. Of the audits completed 547 Homestead Exemptions were denied, resulting in the collection of \$6,700,000 in recovered taxes, penalties and interest from \$76,000,000 in real property value returned to the tax rolls.

The second approach involves local investigations conducted by the county Property Appraiser through its office resources and liaisons with other county agencies. The audit team checks utility accounts, court proceedings (evictions and divorce), sales and tourist taxes and completes Internet searches of VRBO, Airbnb and Home Away Vacation Homes, in addition to following tips presented by neighbors and irate tenants.

The Florida Homestead Exemption for real property assessments is rooted in the Florida Constitution, Article VII, Section 6(a). Section 6(b) limits the Homestead Exemption to one residential unit and one family unit. The Florida Legislature, through F.S. 196.031, limits the Homestead Exemption assessment benefit stating that a person "who is receiving . . . the benefit of an *ad valorem* tax exemption or a tax credit in another state where permanent residency is required as a basis for the granting that *ad valorem* tax exemption or tax credit **is not entitled** to the [Florida] homestead exemption."

The consequences for Homestead Exemption violations are severe. Under F.S. 196.161, the Property Appraiser may lien for unpaid taxes during the current year and any year within the prior ten years

that the Property Appraiser determines the Homestead Exemption was not entitled. The taxpayer's property will be lienied for each disallowed year the actual tax that would have been paid without the Homestead Exemption (less credit for the tax paid), a penalty of 50% of the tax due, and interest at 15% per annum.

The process under the statute provides for the Property Appraiser to send a thirty-day Notice of Intent to Lien to the property owner. If the lien amount is not satisfied within the 30 days, the Property Appraiser will record a Notice of Lien in the public record. If the property has been sold, the Property Appraiser can lien the taxpayer's other property in that county or any other Florida county in which the taxpayer owns property. Note that no hearing is required before the Notice of Lien is filed.

The end result of a disallowed Homestead Exemption can be a lien in the hundreds of thousands of dollars, as we have seen so far. Additionally, the lien notices may trigger defaults in mortgages that are cross-collateralized elsewhere. Clients should be made aware of these audit programs and the possible adverse effects of disallowed Homestead Exemptions.

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