

**UNDERSTANDING  
FLORIDA'S  
AMENDMENT 1**

INFORMATION BELIEVED ACCURATE BUT NOT WARRANTED

ALWAYS CONSULT YOUR TAX PROFESSIONAL

SEPTEMBER 2008

## Amendment 1: tax portability and more!

Florida's new law allows homesteaded homeowners to "port" their property assessment tax cap or Save Our Homes benefit with them when they purchase their next home. In fact, if you sold your property as of January 01, 2007, you may be eligible to receive benefits even though the new law became effective January 01, 2008.

**To determine how much Save Our Homes benefit is transferable** you need a copy of your property tax record available online at [www.bcpa.net](http://www.bcpa.net) (Broward) or [www.pbcgov.com/PAPA](http://www.pbcgov.com/PAPA) (Palm Beach). Then find two values on your record: The "just market value" and "assessed value." The first is the property appraiser's conservative estimate of what your home would sell for after real estate fees and taxes. The second is the value on which you pay taxes.

Subtract the assessed value from your just market value. The result is your **tax equity**. Subtract the tax equity from the just market value of the new home to obtain your new assessed value.

**Here's an example:** Let's say your current home has a just market value of \$400,000 and an assessed value of \$250,000. You have \$150,000 in tax equity.

As long as you buy a new home with a just market value of \$400,000 or greater, you would just subtract the \$150,000 (your tax equity) to determine the assessed value on your new home. On a \$500,000 home, for example, your assessed value would be \$350,000. Note: there's a **\$500,000 cap** on how much accrued Save Our Homes benefits you can transfer.

**On the purchase of a less expensive home**, the benefit would be prorated, which could still be a substantial break under portability. For example: You sell a home with a just market value of \$400,000 and tax equity of \$150,000. You move to a home with a just market value of \$300,000 which is 75% of the original home's just market value ( $\$300,000 \div \$400,000 = 75\%$ ). Your new tax equity would be prorated at 75% ( $75\% \times \$150,000 = \$112,500$ ). Your new assessed value is \$187,500 ( $\$300,000 - \$112,500 = \$187,500$ ).

### **In additions to portability, what are the other benefits to Amendment 1?**

1. Currently, homestead properties are exempt from taxes on the first \$25,000 of property. Amendment 1 exempts another \$25,000 of property from local and municipal taxes. However, school taxes are not exempted, so it's more like increasing the exemption to \$40,000. To fully enjoy the new exemption, the property must be worth at least \$75,000. Homes worth less than \$50,000 receive no new benefit and those between \$50,000 and \$75,000 have a prorated benefit.
2. Amendment 1 provides an assessment cap of 10 percent for all properties not previously capped: While homestead properties are already capped at three percent, now all other properties, including rental properties, second homes, and business properties, will be protected from huge tax increases.
3. Further, Amendment 1 creates a new \$25,000 exemption for business property, including office furniture, computers, machinery and equipment. This provision effectively ends the “tangible personal property tax” for 1.1 million small businesses in our state, saving not only the tax but the cost of preparing the return.

Below are pages taken from [www.myflorida.com](http://www.myflorida.com) the Florida Department of Revenue section <http://dor.myflorida.com/dor/property/sb4d.html> that give more detail to Amendment 1.

**As with all tax matters, contact your CPA or tax specialist.**

## Examples

### Calculation of Assessment Limitation Difference Transfer Amount

Last update: August 12, 2008

The following examples are intended to illustrate how the transfer (portability) amount of a Save Our Homes assessment limitation difference would be calculated. The examples below show standard calculations for upsizing, downsizing, splitting, and joining of homesteads under different ownership arrangements. If you have any questions about homestead portability, please contact your County Property Appraiser's office.

This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference: "Portability;" Sworn Statement Required, effective July 18, 2008.

**1. Upsizing when all owners and homesteaders move to a new homestead.** In this scenario all the owners of a previous homestead establish a new homestead with a higher just value and no change of ownership.

Description			Comments
Previous Homestead			
	Number of owners	2	
	Owners permanently residing	2	
	Just Value	250,000	
	Assessed Value	200,000	
	Assessment Difference	50,000	
New Homestead			
	Number of owners	2	Both of the previous owners and homesteaders move to the new homestead. There are no additional owners.
	Permanent residents from previous home	2	
	Type of ownership	Any	Since all the previous owners who qualified for the homestead exemption moved to the new homestead with no additional owners, the transfer is not considered a "split" and the full amount is transferred subject to the upsizing and downsizing provisions and the \$500,000 maximum.
	Just Value	300,000	Since this is an "upsized", the full amount of the previous homestead assessment difference is transferred up to \$500,000.
	Calculated Assessment Difference	50,000	
	Calculated Assessed Value	250,000	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference: "Portability;" Sworn Statement Required, effective July 18, 2008

**2. Downsizing when all owners and homesteaders move to a new homestead.** In this scenario all the owners of a previous homestead establish a new homestead with a lower just value and no change in ownership.

Description			Comments
Previous Homestead			
	Number of owners	2	
	Owners permanently residing	2	
	Just Value	250,000	
	Assessed Value	200,000	
	Assessment Difference	50,000	
New Homestead			
	Number of owners	2	Both of the previous owners and homesteaders move to the new homestead. There are no additional owners.
	Permanent residents from previous home	2	
	Type of ownership	Any	
	Just Value	210,000	Since this is a "downsize," the new assessment difference is calculated to be the same proportion that the assessment difference of the previous homestead was of the just value of the previous homestead: $(50,000 / 250,000) * 210,000 = 42,000$ .
	Calculated Assessment Difference	42,000	
	Calculated Assessed Value	168,000	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**3. Upsizing when two owners who each own an equal share of a previous homestead split.** In this scenario the two owners of a previous homestead abandon the homestead and one of the owners establishes a new homestead with a higher just value than the previous homestead.

Description			Comments
Previous Homestead			
Number of owners	2		Each owns equal shares.
Owners permanently residing	2		
Just Value	400,000		
Assessed Value	300,000		
Assessment Difference	100,000		
New Homestead			
Number of owners	1		One of the owners and homesteaders from the previous homestead establishes a new homestead.
Permanent residents from previous home	1		
Type of ownership	Any		
Just Value	500,000		Since the previous assessment difference was split 2 ways, this owner's maximum share that can be transferred is \$50,000 (\$100,000 / 2). Since this is an "upsized", the full amount of the homesteader's share can be transferred up to \$500,000.
Calculated Assessment Difference	50,000		
Calculated Assessed Value	450,000		

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**4. Downsizing when two owners who each own an equal share of a previous homestead split.** In this scenario the two owners of a previous homestead abandon it and one of the owners establishes a new homestead with a lower just value than the previous homestead.

Description			Comments
Previous Homestead			
	Number of owners	2	Each owns equal shares.
	Owners permanently residing	2	
	Just Value	400,000	
	Assessed Value	300,000	
	Assessment Difference	100,000	
New Homestead			
	Number of owners	1	One of the owners and homesteaders from the previous homestead establishes a new homestead.
	Permanent residents from previous home	1	
	Type of ownership	Any	
	Just Value	250,000	Since the previous assessment difference was split 2 ways, this owner's maximum share that can be transferred is \$50,000 (\$100,000 / 2). This is a "downsize", so the transfer amount is calculated to be the same proportion that this owner's share of the assessment difference of the previous homestead was of the just value of the previous homestead: $(50,000 / 400,000) * 250,000 = 31,250$ .
	Calculated Assessment Difference	31,250	
	Calculated Assessed Value	218,750	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**5. Joining and upsizing of two previous homesteads with single owners into one new homestead.** In this scenario two sole owners of two previous homesteads abandon and establish a new joint homestead with a higher just value.

Description			Comments
Previous Homestead #1			
	Number of owners	1	
	Owners permanently residing	1	
	Just Value	400,000	
	Assessed Value	300,000	
	Assessment Difference	100,000	
Previous Homestead #2			
	Number of owners	1	
	Owners permanently residing	1	
	Just Value	500,000	
	Assessed Value	350,000	
	Assessment Difference	150,000	
New Homestead			
	Number of owners	2	Two people who each had separate previous homesteads establish a new joint homestead. Ownership of new homestead is tenants by the entireties (e.g. husband and wife) or joint tenants with right of survivorship.
	Type of Ownership	TBE or JTROS	
	Permanent residents from previous homesteads	1 each	
	Type of ownership	Any	
	Just Value	600,000	When two previous homesteads are abandoned and one new joint homestead is established, the highest assessment limitation differential from either of the previous homesteads is eligible for transfer, subject to the \$500,000 maximum and downsizing provisions. In this scenario the owner of homestead #1 has a \$100,000 assessment limitation differential. The owner of homestead #2 has a \$150,000 assessment limitation differential. Therefore, since this is an upsize, the \$150,000 assessment limitation differential from homestead #2 can be transferred to the new homestead.
	Calculated Assessment Difference	150,000	
	Calculated Assessed Value	450,000	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**6. Joining and upsizing of two previous homesteads with multiple owners into one new homestead.** In this scenario two homesteads with multiple owners are abandoned and one of the owners from each of the previous homesteads establishes a new joint homestead with a higher just value.

Description		Comments
Previous Homestead #1		
Number of owners	2	Each owns equal shares.
Owners permanently residing	2	
Just Value	400,000	
Assessed Value	300,000	
Assessment Difference	100,000	
Previous Homestead #2		
Number of owners	2	Each owns equal shares.
Owners permanently residing	2	
Just Value	500,000	
Assessed Value	350,000	
Assessment Difference	150,000	
New Homestead		
Number of owners	2	One of the owners and homesteaders from each of the previous homesteads establishes a new joint homestead.
Permanent residents from previous homesteads	1 each	
Type of ownership	TBE or JTROS	Ownership is tenants by the entireties (e.g. husband and wife) or joint tenants with right of survivorship. Each owner owns an equal share of the previous homestead.
Just Value	600,000	When two previous homesteads are abandoned and one new joint homestead is established, the highest assessment limitation differential from either of the previous homesteads is eligible for transfer, subject to the \$500,000 maximum and downsizing provisions. In this scenario the owner of homestead #1 has one-half of the \$100,000 assessment limitation differential, or \$50,000. The owner of homestead #2 has one-half of the \$150,000 assessment limitation differential, or \$75,000. Therefore, since this is an upsize, the \$75,000 assessment limitation differential from homestead #2 can be transferred to the new homestead.
Calculated Assessment Difference	75,000	
Calculated Assessed Value	525,000	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**7. Establishing a new homestead as a tenant in common.** In this scenario a single owner abandons a homestead and establishes a joint homestead as a tenant in common. Although the just value of the new homestead is higher than the just value of the previous homestead, ownership by tenants in common must be split equally and a just value calculated for each owner. This results in a downsize situation in this scenario because the owner's one-half share is less than the just value of the previous homestead.

Description			Comments
Previous Homestead			
Number of owners	1		
Owners permanently residing	1		
Just Value	400,000		
Assessed Value	250,000		
Assessment Difference	150,000		
New Homestead			
Number of owners	2		Two people purchase a new house and each owns 50% as a tenant in common. Only one of the owners had a previous homestead.
Permanent residents from previous home	1		
Type of ownership	TIC or JTWOROS		Ownership is tenants in common or joint tenants without right of survivorship.
Just Value of entire homestead	450,000		Since ownership of the new homestead is tenants in common, the just value of the new homestead needs to be split in half. The owner with the previous homestead is moving from a home with a just value of \$400,000 to one where his ownership interest is only \$225,000, which results in a downsizing (even though the new property's total just value for all owners is \$450,000). In all downsizing situations, the assessment limitation difference on the new homestead is the same proportion that the assessment limitation difference of the previous homestead was of the just value of the previous homestead: $(150,000/400,000) * 225,000 = 84,375$
Just Value of each owner's share	225,000		
Calculated Assessment Difference	84,375		
Calculated Assessed Value	365,625		

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**8. Downsizing as a tenant in common or a joint tenant without right of survivorship with a previous assessment limitation difference greater than \$500,000.** In this scenario an owner of a previous homestead abandons and establishes a joint homestead as a tenant in common or joint tenant without right of survivorship. The maximum assessment limitation difference that can be transferred is \$500,000, but this is subject to downsizing, splitting and other provisions. In this scenario, since the new ownership results in a downsize situation, the eligible transfer amount is less than the \$500,000 maximum.

Description			Comments
Previous Homestead			
	Number of owners	1	
	Owners permanently residing	1	
	Just Value	1,000,000	
	Assessed Value	400,000	
	Assessment Difference	600,000	
New Homestead			
	Number of owners	2	Two people purchase a new house and each owns 50% as a tenant in common. Only one of the owners had a previous homestead.
	Permanent residents from previous home	1	
	Type of ownership	TIC or JTWOROS	Tenants in common or joint tenants without right of survivorship.
	Just Value of entire homestead	1,400,000	Since ownership of the new homestead is by tenants in common, the just value of the interest of the tenant in common that qualifies for the new homestead is one half the just value. The owner with the previous homestead is moving from a home with a just value of \$1,000,000 to one where his ownership interest is only \$700,000, which results in a downsizing. In all downsizing situations, the assessment limitation difference on the new homestead is the same proportion that the assessment limitation difference of the previous homestead was of the just value of the previous homestead: $(600,000/1,000,000) * 700,000 = 420,000$
	Just Value of each owner's share	700,000	
	Calculated Assessment Difference	420,000	
	Calculated Assessed Value	980,000	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**9. Splitting and transferring an assessment limitation difference from a homestead with multiple owners whose ownership shares are not equal.** In this scenario four owners of a joint homestead whose ownership shares are not equal all abandon the property. One of the owners establishes a new homestead and none of the owners remain in the previous homestead.

Description		Comments
Previous Homestead		
Number of owners	4	Owner #1's share is 40%, owner #2's share is 25%, owner #3's share is 20%, and owner #4's share is 15%.
Owners permanently residing	4	
Just Value	600,000	
Assessed Value	400,000	
Assessment Difference	200,000	
New Homestead		
Number of owners	1	Owner #2 from previous homestead establishes a new homestead. The previous homestead is abandoned by all owners and reassessed at just value as of January 1.
Permanent residents from previous home	1	
Type of ownership		Sole owner.
Just Value of Homestead	400,000	Owner #2's share of the just value of the previous homestead is 25% of \$600,000, or \$150,000. Owner #2's share of the assessment limitation difference of the previous homestead is 25% of \$200,000, or \$50,000. Since the just value of the new homestead is \$400,000, this is an upsize. Therefore, owner #2 can transfer his/her entire share of the assessment limitation difference of \$50,000 to the new homestead.
Calculated Assessment Difference	50,000	
Calculated Assessed Value	350,000	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**10. Splitting and transferring an assessment limitation difference from a homestead with multiple owners whose ownership shares are not equal.** In this scenario four owners of a joint homestead whose ownership shares are not equal abandon the property. Two of the owners establish a new joint homestead and none of the owners remain the previous homestead.

Description		Comments
Previous Homestead		
Number of owners	4	Owner #1's share is 40%, owner #2's share is 25%, owner #3's share is 20%, and owner #4's share is 15%.
Owners permanently residing	4	
Just Value	\$600,000	
Assessed Value	\$400,000	
Assessment Difference	\$200,000	
New Homestead		
Number of owners	2	Owner #1 and Owner #3 from the previous homestead establish a new joint homestead. The previous homestead is abandoned by all owners and reassessed at just value as of January 1.
Permanent residents from previous home	2	
Type of ownership		
Just Value of Homestead	\$400,000	Owner #1's share of the just value of the previous homestead is 40% of \$600,000, or \$240,000. Owner #3's share of the just value of the previous homestead is 20% of \$600,000, or \$120,000. Owner #1's share of the assessment limitation difference of the previous homestead is 40% of \$200,000, or \$80,000. Owner #3's share of the assessment limitation difference of the previous homestead is 20% of \$200,000, or \$40,000. Since the just value of the new homestead is \$400,000, this is an upsize for each of the owners. However, since this is a joining of two separate homesteads, only one owner can transfer an assessment limitation difference. Owner #2's assessment limitation difference is the larger of the two (\$80,000 vs. \$40,000), so \$80,000 can be transferred to the new homestead.
Calculated Assessment Difference	\$80,000	
Calculated Assessed Value	\$320,000	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**11. Splitting and downsizing from a homestead with multiple owners whose ownership shares are not equal.** In this scenario four owners of a joint homestead whose ownership shares are not equal abandon the property. One of the owners (Owner #1) establishes a new homestead that has a lower just value than his/her share of the assessed value of the previous homestead.

Description		Comments
Previous Homestead		
Number of owners	4	Owner #1's share is 40%, owner #2's share is 25%, owner #3's share is 20%, and owner #4's share is 15%.
Owners permanently residing	4	
Just Value	\$600,000	
Assessed Value	\$400,000	
Assessment Difference	\$200,000	
New Homestead		
Number of owners	1	Owner #1 from the previous homestead establishes a new homestead. The previous homestead is abandoned by all owners and reassessed at just value as of January 1.
Permanent residents from previous home	1	
Type of ownership		
Just Value of Homestead	\$200,000	Owner #1's share of the just value of the previous homestead is 40% of \$600,000, or \$240,000. Owner #1's share of the assessment limitation difference of the previous homestead is 40% of \$200,000, or \$80,000. Since the just value of the new homestead is \$200,000, this is a downsize for Owner #1. In any downsize, the transfer amount is calculated to be the same proportion that the owner's share of the assessment difference of the previous homestead was of the owner's share of the just value of the previous homestead: $(\$80,000 / \$240,000) * \$200,000 = \$66,667.$
Calculated Assessment Difference	\$66,667	
Calculated Assessed Value	\$133,333	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**12. Joining of two homesteads when one owner with an assessment limitation difference from a previous homestead establishes a new joint homestead with a current homesteader who has an assessment limitation difference.** In this scenario Owner A abandons a previous homestead and establishes a new joint homestead with Owner B, who remains in his/her current homestead that has an assessment limitation difference.

Description		Comments
Owner A's Previous Homestead		
Number of Owners:	1	
Just Value	\$300,000	
Assessed Value	\$200,000	
Assessment Limitation Difference:	\$100,000	
Owner B's Current Homestead		
Number of Owners:	1	
Just Value	\$400,000	
Assessed Value	\$360,000	
Assessment Limitation Difference	\$40,000	
<b>New Joint Homestead</b>		
Number of Owners:	2	
Just Value	\$400,000	Owner A's assessment limitation difference from his/her previous homestead is \$100,000. Since this is a joining of two homesteads and an upsize, Owner A can transfer his/her assessment limitation difference to the new joint homestead for 2009 if Owner B abandons his/her homestead and relinquishes his/her assessment limitation difference. Owner A and Owner B will both need to apply for a homestead exemption on the new joint property and Owner A will need to apply for the transfer of his/her assessment limitation difference from the previous homestead to the new joint homestead.
Calculated Assessment Limitation	\$100,000	
Calculated Assessed Value	\$300,000	
Ownership	Joint tenants with right of survivorship or tenants by the entireties	

Note: This is a summary for information purposes. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**Frequently Asked Questions**  
**Amendment 1 (SB 4D and SB 1588) Implementation**  
**Florida Department of Revenue**

Last update: August 12, 2008

These FAQs contain general information offered by the Department to assist in the administration of Chapter 2007-339, Laws of Florida. See Emergency Rule 12DER08-21 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required, effective July 18, 2008

**Section A: Portability**

1/18/08    A1    What documentation is required from a person applying for the transfer of a homestead assessment limitation difference?

Each applicant will have to fill out Form DR-501T, "Transfer of Homestead Assessment Difference," in the office of the property appraiser of the county in which their new home is located. Required information on this form includes the date that the previous homestead was sold or no longer used as a homestead, the address and parcel identification number of the previous homestead, a list of all other owners of the previous homestead, an affirmative statement that none of the previous owners remained in the homestead and continued to receive a homestead exemption, and a sworn statement that he or she received the homestead exemption on the previous parcel. Form DR-501, "Original Application for Ad Valorem Tax Exemption" should also be completed to apply for the homestead exemption on the new homestead.

8/5/08    A2    What information will the property appraiser in the county where the new homestead is located rely on to calculate and grant the transfer?

It is likely that in most cases the applicant's new and old homestead will be in the same county. In this case, the property appraiser's records of the previous homestead should be used to determine eligibility and calculate the transfer amount. If the old homestead is located in a different county, the transfer application form (DR-501T) will be transmitted to that county by the new property appraiser together with a copy of the homestead application form. The previous property appraiser will complete Form DR-501RVSH, "Certificate for Transfer of Homestead Assessment Difference" providing details concerning the previous homestead sufficient to calculate the transfer amount.

1/18/08 A3 Can the property appraiser in the county where the previous homestead was located rely on the application for a transfer of a homestead assessment limitation difference as a sufficient statement for the removal of the homestead exemption on the previous homestead?

No. There may be a homeowner continuing to live in the home and qualifying for the exemption. The application for transfer may be in error. (see A8 and A9 below)

1/18/08 A4 If a homestead assessment limitation difference is transferred to a new homestead and it is subsequently found that the difference should not have been transferred or that the transferred amount was incorrect, how should the assessment be corrected?

The property appraiser should follow the procedures for the correction of errors found in s. 193.155(9) and (10), F.S. These sections provide for tax liens to be placed against the property, with notification to the taxpayer and, in certain instances, for penalties and interest on unpaid taxes.

1/18/08 A5 Can a person who sold a homestead in 2006 transfer the assessment difference to a new homestead established as of January 1, 2008?

No, the law does not provide for the transfer of homestead assessment limitation differences from homesteads abandoned prior to January 1, 2007. Section 193.155(8), F. S., states “A person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007”. The law also does not allow the transfer of an assessment limitation difference from a homestead abandoned in 2006 if the person received a homestead exemption on a new homestead on January 1, 2007 and subsequently abandoned that homestead and established a new homestead on January 1, 2008.

8/05/08 A6 Section 193.155(8)(c) and (d), F.S., provides the procedures for the transfer of the homestead assessment limitation difference when a homestead (either current or previous) is “jointly owned and jointly titled” by two or more persons. In applying these provisions, is there a difference between property held as “joint tenants with right of survivorship,” as “tenants in common” or held by married persons?

Yes. In situations where the title of the previous homestead contains specific ownership shares, each owner’s share of the assessment limitation difference is proportional to his/her ownership share in the property. When the title does not contain

specific ownership shares, the assessment limitation difference is divided equally by the number of owners who received the homestead exemption on the property. The only exception is when all the owners of the previous homestead jointly establish a new homestead with no additional owners, in which case the entire assessment limitation difference (up to a maximum of \$500,000) may be transferred, subject to rules for downsizing.

8/5/08 A7 With the passage of Senate Bill 1588, is there still a two-year eligibility requirement to establish a new homestead in order to transfer an assessment limitation differential?

Yes. A homeowner must establish a new homestead within 2 years (assessment years) of abandoning a previous homestead. This requirement has not changed. The requirement that a homeowner must have abandoned a previous homestead after January 1, 2007 also has not changed.

What did change in SB1588 is that homeowners may apply for portability in a future year on that new homestead if, for whatever reason, they failed to apply for portability in the year they established the new home as their homestead (S. 193.155(8)(j), F.S.). If they do apply for portability in a future year, any reduction in assessed value on the new homestead is applied to the assessed value in the year the transfer is first approved, and no refunds may be made for previous years.

**Example:**

Homesteader John Doe abandons his homestead (Property A) in March 2007 and establishes a new homestead (Property B) in April 2007. John Doe's previous homestead (Property A) had a homestead exemption and an assessment limitation differential of \$100,000. John Doe applies for and receives a homestead exemption on Property B for the 2008 tax year. However, John Doe does not apply for the transfer of his assessment limitation difference from Property A until February 2010. Under S. 193.155(8)(j), John Doe is eligible to transfer his assessment limitation differential from Property A to Property B for the (January 1) 2010 tax year (subject to any upsizing/downsizing/splitting/joining provisions). Any reduction in assessed value on Property B resulting from the transfer of the assessment limitation differential from Property A is only applicable for the 2010 tax year and any subsequent years John Doe qualifies for the homestead exemption on Property B. In addition, the amount of the assessment limitation difference that can be transferred is calculated based on the just value of Property B in the year in which John Doe established Property B as his homestead (in this example 2008) and not in the year in which he applied for the transfer of

his assessment limitation difference (in this example 2010).

- 8/12/08 A8 Is there any provision of law that would allow the transfer of a homestead assessment limitation difference when one or more owners remain in the previous homestead?
- Yes. Starting with the 2008 tax year, Section 193.155(8)(f), F.S. allows an owner of a homestead to abandon the homestead and reestablish the property as a new homestead even though it remains his or her primary residence by notifying the property appraiser of the county where the homestead is located. This provision allows owners who no longer live at the previous homestead to transfer their share of the assessment limitation difference and for the owners who remain in the previous homestead to transfer back in their share of the assessment limitation difference as of the next January 1, if the owner still residing at the previous homestead voluntarily abandons the homestead. When any transfer of an assessment limitation difference occurs, the previous homestead must be reassessed at just value on January 1 and the owner remaining in the homestead must reapply for the homestead exemption and apply to transfer their share of the assessment limitation difference.
- 8/5/08 A9 In order to transfer an assessment limitation difference, does the previous homestead have to be sold?
- No. The previous homestead must have been abandoned by all owners, but there is no requirement that there be a change of ownership of the property.
- 1/30/08 A10 If two people abandon a jointly owned homestead with an assessment limitation difference greater than \$500,000 and move to two separate homesteads, can they transfer their proportionate share of the previous homestead assessment difference as long as their individual share is not greater than \$500,000?
- No. The total reduction in just value for all new homesteads established by the owners of a single previous homestead may not exceed \$500,000. Therefore, the maximum assessment limitation difference that could be transferred by two previous joint owners of a single homestead establishing different homesteads is \$250,000 each.
- 2/13/08 A11 If two people who previously owned separate homesteads join in establishing a new homestead, can the assessment limitation difference that is transferred from the new homesteader with the highest transfer amount be fully transferred even if it exceeds the maximum transfer

amount of the other new homesteader?

Yes. The highest difference of the new homesteaders may be transferred, subject to the downsizing provisions and the \$500,000 maximum transfer limit. Note that if the new owners are joint tenants without right of survivorship or tenants in common, the calculation of the amount of assessment limitation difference that may be transferred must be based on the difference between the just and assessed values of each person's interest in the new property.

1/18/08 A12 If the previous homestead is qualified for both a homestead exemption and an agricultural classified use assessment, how is the amount of transfer to be calculated?

The amount eligible for transfer is equal to the reduction in value due to the limitation on homestead assessment increases. Therefore, the difference eligible for transfer is equal to the difference between just and assessed value on the homestead portion of the property.

2/13/08 A13 A previous homestead was jointly owned (titled) by two people on January 1, 2007. They abandoned the previous homestead and both moved to a new property in 2007. However, the new property is only owned (titled) by one of these individuals, who intends to establish the new property as his/her homestead on January 1, 2008. Since they both lived at the previous homestead and now both live at the new property, can they transfer the entire assessment limitation difference from the previous property to the new property in 2008?

No. One of the individuals is not on the deed for the new property and is therefore not eligible for a homestead exemption on the new property. In addition, since all the owners of the previous homestead are different than all the owners of the new homestead, this is not a "transfer without splitting or joining." Therefore, only the owner of the new homestead is eligible to transfer his/her share of the assessment limitation differential from the previous homestead, which is 50 percent, subject also to the provisions for upsizing and downsizing.

2/13/08 A14 What are the calculations for determining how much of an assessment limitation difference can be transferred from a previous homestead to a new homestead?

Specific examples showing the calculation of the assessment limitation difference under various circumstances can be found

at: <http://dor.myflorida.com/dor/property/portfaqexamples.pdf>

2/13/08 A15 If a homeowner sold a homestead in December 2006, purchased a new property in December 2006 and claimed a homestead exemption on the new property as of January 1, 2007, can that person transfer (port) the assessment limitation differential from the 2006 homestead to the new homestead in 2008?

No. Section 193.155(8), F.S. states that the following two conditions must be met in order to transfer an assessment limitation difference in 2008. First, the previous homestead must have received a homestead exemption on January 1, 2007. Second, the new homestead must qualify for a homestead exemption on January 1, 2008. In the scenario above, the new homestead (instead of the previous homestead) received a homestead exemption on January 1, 2007, so the owners are not eligible to transfer an assessment limitation difference.

**Frequently Asked Questions**  
**Amendment 1 (SB 4D and SB 1588) Implementation**  
**Florida Department of Revenue**

Last update 09/02/08

These FAQs contain general information offered by the Department to assist in the administration of Chapter 2007-339, Laws of Florida (SB 4D) and Chapter 2008-173, Laws of Florida (SB 1588). See Emergency Rule 12DER08-22 Tangible Personal Property Exemption, effective July 18, 2008.

**Section B: Tangible Personal Property Exemption**

9/2/08    B1    What constitutes a “site where the owner of tangible personal property transacts business under SB 1588, Chapter 2008-173, Laws of Florida?”

The “site where the owner of tangible personal property transacts business” includes facilities where the business ships or receives goods; employees of the business are located; goods or equipment of the business are stored; goods or services of the business are produced, manufactured or developed; or similar facilities located in offices, stores, warehouses, plants or other locations of the business.

Not considered a “site where the owner of tangible personal property transacts business” is a site where freestanding property of only the owner is located, such as at multiple sites in a county. Such freestanding property includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property not customarily located in the offices, stores, or plants of the owner.

9/2/08    B2    For a business leasing copying machines or other freestanding equipment, does the location where the equipment is located constitute a site where the owner transacts business?

No. If it is not a site where one or more of the activities stated in the first paragraph of the answer to B1 occur, it is not considered a site where the owner transacts business.

1/18/08    B3    Do owners of freestanding equipment that is not located where the owner transacts business receive an exemption for such equipment? How is the exemption to be allocated to taxing authorities?

Yes. Section 196.183(1), F.S., specifically states that a single return must be filed, and therefore a single exemption granted, for all freestanding equipment not located at the place where the owner transacts business. The property appraiser is responsible

for allocating the exemption to taxing jurisdictions in which freestanding equipment is located. Allocation should be based on the proportionate share of the just value of such property in each jurisdiction. However, the amount of the exemption allocated to each taxing authority may not change following the extension of the tax roll.

- 9/2/08 B4 Can the property appraiser delete exempt accounts, such as mobile home appurtenances, from the roll and not report such accounts to the Department of Revenue?

No. Chapter 2008-173, Laws of Florida and Chapter 2007-339, Laws of Florida require that all tangible personal property be assessed and recorded on the tax roll.

- 1/18/08 B5 If no return is required from exempt accounts, how will the property appraiser know the correct value for the account?

Value should be determined based on previous returns and discovery by the property appraiser. If the property appraiser believes that new property has been added or that value has increased above the \$25,000 exemption, a return may be sent to the taxpayer. If the property appraiser believes the value is greater than \$25,000, the law requires that the property be subject to taxation.

- 9/2/08 B6 Where there is one cohesive operating business with multiple owners who each file separate and distinct tangible tax returns, how many \$25,000 exemptions is that one business entitled to?

Section 196.183, F.S., states that each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value. If the property appraiser has determined that there are separate and distinct owners of property used in the business that each file returns, each may each receive a \$25,000 exemption.

- 9/2/08 B7 If a utility company has employees working at various locations (other than retail or service centers), are they entitled to one exemption for each location at which an employee may perform some work?

One of the criteria included in section 196.183, F.S., defining a site where the owner of tangible personal property transacts business is that employees of the business are *located* at the site. An employee working at a site from time to time to repair or monitor equipment would apparently not be located at the site.

However, this is a factual determination to be made by the Property Appraiser.

- 9/2/08 B8 Section 196.183, F.S. states that the \$25,000 exemption does not apply if a return is not timely filed. What is meant by “timely”?

Tangible personal property tax returns must be filed by April 1 or within any applicable extension period. Returns filed after April 1 or after an applicable extension period would apparently not be timely. This provision does not apply to taxpayers who are not required to file a return because they were previously assessed without a return being filed or who have had the requirement to file a return waived because the value of their property does not exceed the exemption.

- 9/2/08 B9 If there is no return filed, should an exemption be granted?

In general all taxpayers are required to file a return in order to initially receive the exemption unless the requirement to file a return has been waived because assessed value on the previous year’s return did not exceed the exemption or the property appraiser had “previously assessed” the taxpayer without a return being filed. See s. 193.085(4), F.S. “Previously assessed” without a return being filed means that in the prior year the taxpayer was assessed and required to pay tax even though the property appraiser did not require a return to be filed. It is the option of the Property Appraiser to qualify the taxpayer for the exemption in this circumstance.

- 9/2/08 B10 Does s. 196.183(4), F.S., as created by chapter 2008-173, Section 9, Laws of Florida (SB 1588), which allows an exemption for property assessed without a return being filed, apply only to mobile home attachment accounts which have previously been assessed without a return being required or does it apply to any account previously assessed by the property appraiser without a return being filed?

It applies to assessments on any account, which at the property appraiser’s practice have not been required to file a return, if the taxpayer had been previously assessed without a return being filed. As used in this section, “previously assessed” means that the taxpayer must have been assessed without a return being filed in the prior year.