

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-4-1-.23

Rule Title: Homestead and Principal Residence Exemptions from Property Tax

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?

No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

Yes

Does the proposed rule have any economic impact?

No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Michael D. Beeth*

Date 9/23/13

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: **810-4-1-.23**

Rule Title: **Homestead and Principal Residence Exemptions from Property Tax**

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Property Tax Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-4-1-.23 Homestead and Principal Residence Exemptions from Property Tax

INTENDED ACTION: Adopt a new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule which will establish guidelines on qualifications for the various homestead exemptions and the principal residence exemption from property taxes.

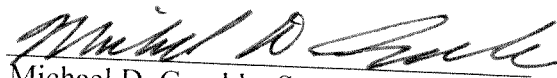
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on Wednesday, November 6, 2013, Room 1203, First Floor, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, November 6, 2013

CONTACT PERSON AT AGENCY:

Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380


Michael D. Gamble, Secretary
Alabama Department of Revenue

0910APC.INT

810-4-1-.23 Homestead and Principal Residence Exemptions from Property Tax.
(NEW RULE)

(1) **PURPOSE** - This rule is issued pursuant to authority contained in Section 40-9-19, 40-9-21 and 40-9-21.1 Code of Alabama, 1975, and Act 2013-295 for the purpose of establishing guidelines and procedures for the uniform implementation of exemption from property tax on homestead and principal residence property.

(2) **DEFINITIONS** - For the purpose of this rule, the following terms shall have the following meanings:

(a) **Homestead** - A single family, owner occupied residential dwelling and the land thereto, not exceeding 160 acres. For the purpose of this rule the terms homestead and principle residence have the same meaning.

(b) **Principal Residence** - Class III real property, to include land, residential dwelling, and curtilage, used by the owner as his or her single-family owner-occupied residence and 160 acres thereto. For the purpose of this rule the terms homestead and principle residence have the same meaning.

(c) **Retired** - Any individual who has worked full time for an extended period, who is not now working due to being totally and permanently disabled.

(d) **Form PT-PA-1** – This is a Physician's Affidavit of Permanent and Total Disability that must be used when claiming a homestead or principal residence exemption base of permanent and total disability when the person claiming the exemption is not receiving a pension or annuity due to disability.

(3) **STATE HOMESTEAD EXEMPTION**

(a) Homesteads of residents of this state who are not 65 years of age or older are exempt from state levied property taxes not to exceed \$4,000 in assessed value.

(b) Homesteads of residents of this state 65 years of age or older or who are retired due to permanent and total disability, regardless of age, or who are blind as defined in Section 1-1-3, regardless of age or whether the person is retired, are exempt from all state levied property taxes. A person qualifying for this exemption based on being retired due to permanent and total disability will also qualify for a more complete exemption under 7(b) of this rule.

(c) Proof of the taxpayer being retired because of total and permanent disability may include the receipt of a pension or annuity due to disability from a private company or a state or federal governmental agency or the written certification (Form PT-PA-1) of the taxpayer being retired because of total and permanent disability from two physicians licensed to practice medicine in Alabama. Alabama Department of Revenue Form PT-PA-1 must be used when providing a physician's written certification

of total and permanent disability. On and after August 1, 2013 at least one of the physicians must be actively providing treatment directly related to the permanent and total disability of the person seeking the exemption.

(4) COUNTY HOMESTEAD EXEMPTION

(a) Homesteads of any residents of this state who are not 65 years of age or older are exempt from county levied property taxes, except countywide and school district property taxes levied for school purposes, not to exceed \$2,000 in assessed value.

1. The governing body of any county, municipality or other local taxing authority may at any time grant by resolution or ordinance an increase of the exemption provided in (a) above not to exceed a maximum exemption of \$4,000.

(b) Homesteads of residents of this state 65 years of age or older who have an annual adjusted gross income of less than \$12,000 as reflected on the most recent state income tax return or some other appropriate evidence, or who are retired due to permanent and total disability, regardless of age, or who are blind as defined in Section 1-1-3, regardless of age or whether the person is retired, are exempt from county levied property taxes, including property taxes levied for school districts, not to exceed \$5,000 in assessed value. A person qualifying for this exemption based on being retired due to permanent and total disability will also qualify for a more complete exemption under 7(b) of this rule.

(c) Proof of the taxpayer being retired because of total and permanent disability may include the receipt of a pension or annuity due to disability from a private company or a state or federal governmental agency or the written certification (Form PT-PA-1) of the taxpayer being retired because of total and permanent disability from two physicians licensed to practice medicine in Alabama. Alabama Department of Revenue Form PT-PA-1 must be used when providing a physician's written certification of total and permanent disability. On and after August 1, 2013 at least one of these physicians must be actively providing treatment directly related to the permanent and total disability of the person seeking the exemption.

(5) PRORATED HOMESTEADS

(a) With respect of homesteads situated in more than one county, the exemption granted in (4) shall be prorated between the counties in which the homestead is situated in the proration that the area of the homestead in each county bears to the total area of the homestead claimed for exemption.

(6) JOINT OWNERSHIP – Property owned by a person who meets the criteria to claim a homestead or principal residence exemption shall receive the full exemption, whether the person is a joint owner or the sole owner. There are no partial homestead or principal residence exemptions.

(7) PRINCIPAL RESIDENCE EXEMPTION

(a) The principal residence of any taxpayer in this state 65 years of age or older having a net annual taxable income of \$12,000 or less, as shown on the taxpayer's and spouse's latest United States income tax return or some other appropriate evidence is exempt from all property taxes levied by the state, any county or any municipality.

(b) The principal residence of any taxpayer in this state who is permanently and totally disabled regardless of age or income is exempt from all property taxes levied by the state, any county or any municipality.

(c) Proof of the taxpayer being totally and permanently disabled may include the receipt of a pension or annuity due to disability from a private company or a state or federal governmental agency or the written certification (Form PT-PA-1) of the taxpayer being retired because of total and permanent disability from two physicians licensed to practice medicine in Alabama. Alabama Department of Revenue Form PT-PA-1 must be used when providing a physician's written certification of total and permanent disability. On and after August 1, 2013 at least one of these physicians must be actively providing treatment directly related to the permanent and total disability of the person seeking the exemption.

(8) APPLICATION PROCESS - To obtain this homestead exemption, the owner of any homestead property as of the October 1 lien date must successfully apply for the exemption and submit all supporting documentation to the local tax assessing official in the county where their homestead property is located. Application may be made between October 1 and December 31 for the exemption to be applied for the current year or application may be made at any time during the year for the exemption to be applied for the following year.

(9) ANNUAL VERIFICATION – Any person who is permanently and totally disabled and who qualifies for and has been granted the homestead or principal residence exemption in Sections 40-9-19 and 40-9-21 shall not be required to annually claim such exemptions after the initial qualification, but shall be allowed to verify such condition each year by mail on a form affidavit provided by the county assessing official.

(a) Any person who is 65 years of age or older and who qualifies for and has been granted the homestead or principal residence exemption under the income limitations provided in Sections 40-9-19 and 40-9-21 shall after the initial qualification be allowed to verify such eligibility each year by mail on a form affidavit provided by the county assessing official.

(10) PENALTY FOR WILLFULLY PROVIDING FALSE INFORMATION – Any person who knowingly and willfully gives false information for the purpose of claiming a homestead or principal residence exemption, or for the purpose of assisting another person in claiming a homestead or principal residence exemption, shall be ordered to

pay twice the amount of any ad valorem tax which would have been due retroactive for a period of up to 10 years plus interest at a rate of 15 percent per annum from the date the tax would have been due.

(a) The penalties and interest assessed against any person who obtained an exemption based upon false information or any person who assisted another in claiming an exemption with false information shall be paid within thirty days of written demand by the local taxing official or the department.

(b) If payment is not made as provided above, the State of Alabama shall bring a civil action to recover the penalties and interest due. The amount recovered shall be paid to the local taxing official in the county where the exemption was granted. The local taxing official shall then distribute the monies on a pro rata basis to each of the entities which would have received a portion of the assessed ad valorem tax had the exemption not been granted based upon false information.

Author: Will Martin
Authority: Sections 40-9-19, 40-19-21 and 40-9-21.1, Code of Alabama 1975 and Act 2013-295
History: