

Leimberg Information Services	Podcast Services	FAXNET Archives	Tax Research Sites	Useful Numbers	7520 & AFR Rates	Calcs & Charts	Form Finder	IRS Tax Tips	Stowe's Software & Books	Code Searcher	To Update Email & Account Info.	
FAST, FRANK, INCISIVE ANALYSIS												
CLICK TABS BELOW FOR NEWSLETTER ARCHIVES						SPECIAL SERVICES						
Elder Care Planning	Estate Planning	Finance & Markets	Employee Benefit/Retirement	Business Entities	Asset Protection Planning	Charitable Planning	Law Threads	Actual Text	Corp./LLC Partnership Resources	Super Searcher	State Laws	Tell A Friend

Search the complete LISI®, ActualText, and LawThreads® archives.

Search archives for: Find it

[All Archives](#)

[Click for Search Tips](#)

[Click for Most Recent Newsletters](#)

Steve Leimberg's Estate Planning Email Newsletter - Archive Message #1244

Date: 13-Feb-08

From: Steve Leimberg's Estate Planning Newsletter

Subject: Florida Takes Another Step to Encourage Change of Domicile: State Continues Trend to Favor Residents

Jeffrey A. Baskies is a founding partner of the recently formed law firm – **Katz Baskies LLC** – located in Boca Raton, Florida. Jeff concentrates on trusts and estates, tax and business law. Jeff, a long-time LISI commentator, is board certified by the Florida Bar as a specialist in Wills, Trusts and Estates law, is AV© rated by Martindale-Hubbell, and was listed as one of Worth magazine's "Top 100 Attorneys in America" in that magazine's inaugural and second annual ranking of lawyers. Jeff is a frequent contributor to LISI as well as other publications such as **Estate Planning** magazine.

Jeff fills LISI members in on some key tax issues for those of us who have clients living in the Sunshine state.

EXECUTIVE SUMMARY

As previously discussed in LISI Commentaries 958 (**Florida Legislature Repeals Intangibles Tax**) and 1147 (**Florida, a Smart Move?**) over the past couple of years the Florida Governor and Legislature have actively attempted to improve the tax situation for residents and thus encourage changing domicile to Florida.

First, in 2006, the Florida Intangibles Tax was repealed. Then in 2007, a property tax reform bill was passed favoring residents. Next, on Tuesday, January 29, 2008, the residents of Florida overwhelmingly voted in favor of a new and additional tax benefit to Florida homestead owners.

The trend indicates Florida has been actively trying to make itself a more appealing destination for residents. If your clients have homes in Florida and have considered changing domicile, these changes have made becoming a resident even more tax-favorable.

FACTS

As presented in LISI Commentary 1147, in 2007, the Florida legislature passed a property tax reform bill in two parts.

The first part was a property tax roll-back (to the levels the property taxes were at 5 years ago) which should positively impact *every* taxpayer: Florida residents, snow-birds, owners of rental properties, business owners, etc. The

tax roll-back is estimated to save taxpayers up to \$15 billion over five years, including \$174 for the average homeowner in the first year.

The second part was a proposal to create a new "super-homestead" exemption. That part of the plan was controversial and complicated (and explained in greater detail in that Commentary). In fact, it was so complicated that a Florida Judge banned it from the ballot.

In response, the Governor and Legislature proposed a new Constitutional Amendment (the so-called "Amendment 1" on the ballot) offering homestead benefits for residents (including an increased exemption from the tax and "portability" of the Save our Homes exemption), which proposal passed on January 29th. Amendment 1 is expected to cut taxes another \$9.3 billion in the first five years.

Amendment 1's most immediate benefit for primary homeowners comes from increasing the existing \$25,000 homestead exemption. It will double to \$50,000, but only for non-school taxes and just for homes valued at more than \$50,000. It is anticipated that the increase in the exemption from \$25,000 to \$50,000 should save about \$240/year for most residents.

Of great long-term concern, though, for many of our clients - those who are residents (or those considering becoming residents) - is the new homestead portability. As many of you are aware, Florida already has a property tax law favoring residents with a 3% annual cap on property value increases for tax purposes. Many long-time residents have seen their property values more than double while their assessed value has remained very low. This "gap" between actual and assessed values represents a huge tax windfall for the residents who benefit from it.

But the fear of losing this tax benefit has caused a degree of paralysis among residents who fear moving and losing the benefits of this tax savings. The stories are legend of clients wishing to move from their homes but instead remaining because the fear of their new property taxes outweighed all other considerations.

Amendment 1 offers a solution by allowing up to \$500,000 of SOH benefits (that "gap") to be applied toward the tax base on any new home purchased in Florida within two years.

Critics, however, have argued that this new portability will further exacerbate the property tax inequities in the State of Florida and will generate more harm than good. It has been reported that there is already a lawsuit pending challenging the Constitutionality of portability and indeed the whole notion of property taxes favoring residents.

Amendment 1 also includes a few provisions for non-homestead property; however, one might question how much help the provision will provide. The key benefit (for snow-birds and businesses) is that all non-homestead property will get a 10 percent annual cap on increases in assessed value.

COMMENT

The so-called Amendment 1 passed with the affirmative vote of more than 60% of the voters - it appears to have garnered approximately 65% of the vote. That was a strong statement by the residents that the state's property tax

system needs attention. On that score, the voters are correct. The current system is not working properly and reform is vital.

Obviously, every resident will feel some relief from the doubling of the exemption. While a \$240 savings is not huge, it is a step in the right direction.

But the opportunity for SOH portability will likely be the long-term legacy of Amendment 1. As noted herein, many homeowners have argued they were trapped in their homes because they would lose their accrued SOH benefits if they moved. Amendment 1's portability provision allowing residents to take up to \$500,000 worth of SOH benefits to a new residence - retroactive to homes sold in 2007 - will have significant long-term impact.

While portability will directly help those residents who currently already benefit from a large SOH gap, indirectly, passage of this provision may prove to be adverse. Many critics fear the impact of exacerbating the disparate treatment of residents from non-residents and moreover the likely impact on businesses.

This Amendment will continue to disproportionately push the state's tax burden on those who do not reside here, on those buying vacation homes here, on those who move here and on the businesses that exist (or move) here. I, for one, hope further property tax reform will be considered.

And there is reason for hope. While Amendment 1's passage was cited by Governor Christ as an important step in Florida's property tax reform struggle, he indicated it will not be the last word on property tax relief in Florida. Gov. Christ said it's just one step in a process, and this was just the start. For those of us who feel Florida's property tax system needs much greater and farther reaching reform, we hope this "band-aid" is not the end.

The state's Taxation and Budget Reform Commission, which meets every 20 years, is currently considering other tax relief ideas including a proposal that would replace school property taxes with a broader sales tax. The Taxation and Budget Reform Commission is expected to meet shortly to discuss its options in light of Amendment 1's passage.

And further adding to the speculation that the Florida property tax system may be additionally modified, there currently is a citizen's initiative led by the Speaker of the Florida House of Representatives, which is gathering signatures for a proposal that would more strictly limit property taxes. This proposal seeks to limit the total property taxes to 1.35 percent of a property's value.

Thus, additional changes - presumptively further benefiting those considering Florida as a residence - may pass in the foreseeable future.

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Jeff Baskies

CITE AS:

LSI Estate Planning Newsletter # 1242 (February 13, 2008) at
<http://www.leimbergservices.com/> Reproduction in Any Form or
Forwarding to Any Person Prohibited – Without Express Permission.

Copyright © 2008 Leimberg Information Services Inc.