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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable G. Thomas Surtees
Commissioner, Department of Revenue
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Ad Valorem Taxes – Homestead Exemption
– Principal-Residence Exemption

Property owned by a person who meets the criteria necessary to claim a homestead exemption or the principal-residence exemption shall receive the full exemption, not a proportional share, regardless of whether the person is a joint owner or the sole owner.

Dear Commissioner Surtees:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Whether the various homestead exemptions on property that is jointly owned by two or more persons should be prorated, based on the claimant's ownership interest in the property, or whether the exemption should apply to the entire value of the property if one of the owners qualifies for the exemption.

FACTS AND ANALYSIS

Your opinion request asks for clarification regarding the application of the exemptions for ad valorem taxes on property that is jointly owned by two or more persons. Section 40-9-19(a) of the Code of Alabama exempts persons under 65 years of age from the first \$4000 of assessed value for state ad valorem taxes. Three other sections of the Code concern exemptions from ad valorem taxes for persons who are disabled or are over age 65. Sections 40-9-19(a) and

40-9-19(d) of the Code of Alabama concern the homestead exemption. Section 40-9-21 of the Code concerns the principal-residence exemption.

The homestead exemption provides, in pertinent part, as follows:

(a) *Homesteads, as defined by the Constitution and laws of Alabama, are hereby exempted from all state ad valorem taxes.* In no case shall the exemption herein made apply to more than one person, head of the family, nor shall the said exemption exceed \$4,000.00 in assessed value, nor 160 acres in area for any resident of this state who is not over 65 years of age. ***The homesteads of residents of this state, over 65 years of age, 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 such person is retired, shall be exempt from all state ad valorem taxes.***

...

(d) . . . *[R]esidents of this state, over 65 years of age 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 such person is retired, homesteads, as defined in the Constitution and laws of Alabama, are hereby exempted from ad valorem property taxes levied by any county of this state including such taxes levied for school districts.* In no case shall such exemption exceed \$5,000 in assessed value, nor 160 acres in area.

ALA. CODE § 40-9-19 (2003) (emphasis added).

Section 40-9-21 of the Code of Alabama provides, in pertinent part, as follows:

In addition to the persons and property exempt from ad valorem taxation as prescribed in Section 40-9-1, ***the following shall also be exempt from ad valorem taxation: the principal residence and 160 acres adjacent thereto of any person who is totally disabled or***

who is 65 years of age or older having a net annual taxable income of \$7,500 or less, as shown on such person's and spouse's latest United States income tax return.

ALA. CODE § 40-9-21 (2003) (emphasis added).

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 334 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994); Opinion to Honorable Ned W. McHenry, Department of Public Safety, dated October 7, 1992, A.G. No. 93-00018 at 4. Such is the case in these sections.

This Office issued a series of opinions from September 20, 1937, through February 6, 1991, addressing the rights of joint owners to claim the homestead exemption. The initial opinion was based on very specific fact scenarios. Over time, the opinions of this Office lost the fact-specific premise on which the analysis had rested and came to collectively stand for the general proposition that joint owners of property who qualify for these exemptions are only entitled to a proportional share of them. No distinction exists in the law to allow for apportioning the exemptions. In fact, section 40-9-19(a) of the Code expressly provides that, in no case, shall the exemption herein made apply to more than one person or head of the family. This proposition is therefore in conflict with and ignores the plain language of the above statutes and is hereby vacated. To the extent that any previous opinions are in conflict with this opinion, they are expressly overruled.

It is the opinion of this Office that state law grants an exemption in certain instances:

- Section 40-9-19(a) of the Code of Alabama exempts homesteads of residents who are under 65 years of age from the first \$4000 of assessed value for state ad valorem taxes.
- Section 40-9-19(a) of the Code of Alabama exempts homesteads of residents who are over 65 years of age, disabled, or blind from all state ad valorem taxes.
- Section 40-9-19(d) of the Code exempts the homesteads of residents who are over 65 years of age making less than \$12,000; or who are totally disabled, or who are blind, from

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the first \$5000 of assessed value for county ad valorem taxes, including those levied for school taxes.

- Section 40-9-21 of the Code exempts the principal residence and 160 acres adjacent thereto of any person who is totally disabled or who is 65 years of age or older and whose net taxable income is \$7500 or less from ad valorem taxation.

The test, then, as to whether ad valorem taxes are due on a particular piece of property is whether an individual property owner qualifies for one of the exemptions in sections 40-9-19 or 40-9-21 of the Code of Alabama. Such questions are fact specific and are beyond the scope of an opinion of this Office.

CONCLUSION

Property owned by a person who meets the criteria necessary to claim a homestead exemption or the principal-residence exemption shall receive the full exemption, whether the person is a joint owner or the sole owner.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Noel S. Barnes of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

TK/NB

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