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MEMORANDUM

To: All Tax Assessors, Tax Collectors and Revenue Commissioners

From: Bill Bass, Director
Property Tax Division

Re: Act 2013-295 of the 2013 Regular Session

On May 21, 2013 Governor Bentley signed HB19 into law as Act 2013-295 (the "2013 Homestead Exemption Act" or the "2013 Act") relating to homestead exemptions and exemptions on principal residences effectively repealing most of Act 2012-313, (the "2012 Homestead Exemption Act" or the "2012 Act").

The 2013 Act's Specific Changes

Section 40-9-19(d) \$5000 Exemption Based on State Income

The 2013 Act restores the language of Section 40-9-19 (d) providing a homestead exemption (not to exceed \$5,000 of assessed value) for residents 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 (regardless of age or whether such person is retired).

Section 40-9-21 Complete Exemption for those Over 65 or Disabled

The 2013 Act amends Section 40-9-21 and provides a total exemption from ad valorem taxes on the principal residence and 160 acres adjacent thereto of any resident of this state who is 65 years of age or older, provided the net annual taxable income for the person claiming the exemption and that of his or her spouse is twelve thousand dollars (\$12,000) or less, as shown on such person's and spouse's latest **United State income tax return** or some other appropriate evidence... **OR** who is permanently and totally disabled **regardless of income** or age. **The 2013 Act's revisions to Section 40-9-21 removed the income threshold from the exemption for the disabled so that now only those persons claiming the exemption based on being 65 years of age or older are required to meet the income limitation.**

Any taxpayer who lost the exemption due to the income threshold, who previously had the exemption granted under the provisions of Title 40-9-21 based on the taxpayer's permanent and total disability, and who was still the owner and principal resident of the property on October 1, 2012, should have the exemption reinstated without the necessity of additional documentation. But this automatic reinstatement of the exemption should only be made when the local tax official can reasonably conclude, based on existing records, that the taxpayer and property should maintain the exemption for the 2012 tax year.

Documenting Disabled Status

The 2013 Act also provides that, going forward, those persons seeking exemption based on disability status who are not drawing a disability pension or annuity from the armed services, a private company or any governmental agency, may establish their disability status by providing proof of such permanent and total disability by submitting written affidavits by any two physicians licensed to practice in this state, ***provided that at least one of these physicians is actively providing treatment directly related to the permanent and total disability*** of the person seeking the exemption. The requirement that at least one of the physicians be actively providing treatment applies to any person applying for the exemption for the first time after the passage of the 2013 Act. Any person who qualified to receive the exemption prior to the effective date of the 2013 Act by submitting written certification by two physicians licensed to practice in this state will continue to receive the exemption based on the two physician letters already provided and shall not be required to resubmit any physicians' letters.

Retroactivity of the 2013 Act – August 1 Deadline for Exemption to Apply to the 2012 Tax Year

The provisions of the 2013 Act are retroactive to August 1, 2012 and apply to the tax year beginning October 1, 2012. Taxpayers seeking the applicable exemptions have until ***July 31, of this year*** to claim the exemption and have it be effective for the tax year beginning October 1, 2012.

Penalty provision in new Section Title 40-9-21.2

This new section states that anyone who knowingly and willfully gives false information for the purpose of claiming a homestead exemption, or for the purpose of assisting another person in claiming a homestead 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 the rate of 15 percent per annum from the date the tax would have been due.

Administrative Rule and Affidavit

The Department will establish an Administrative Rule as soon as possible addressing the criteria and proof required for an exemption based on a person being permanently and totally disabled. The Department will also develop a standard affidavit to be used by physicians certifying a person's disability. We hope to have the affidavit available shortly and posted on our web site.

Department of Revenue Contact

Should you have any questions about the 2013 Homestead Exemption Act you may contact this office at 334-242-1525 or by email to the persons listed below.

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