REAL ESTATE ODDS AND ENDS

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Have you ever wondered about those documentary stamps that the government charges when you convey your property to another? If you have, you're not alone, it is sometimes a mystery as to how the assessment is for the tax is made. You should think of it as a sales tax similar to the type you get charged when you purchase an item at a store. But there are some odd things about the application of the stamp tax that may affect you. Another oddity is the Homestead (Save Our Homes) tax exemption that every Florida citizen who owns and considers themselves a permanent resident of this State is eligible to receive.

Let's review the documentary stamp issue. I call this the marriage penalty act. Here are the facts, you purchased your dream house, paid $120,000.00 for it with a $100,000.00 mortgage. At the time of purchase you paid approximately $840.00 in documentary stamp taxes (.70 cents per $100). A few years later, your spouse dies or a divorce occurs. You are now unmarried and that home is presently titled in your name. While you are single, you meet another person and develop a relationship that eventually leads to marriage.

After getting married you feel compelled to place the new spouse on the deed to avoid potential problems later on should one of you pass. Rather than prepare a new will conveying the property to your new spouse, you elect to simply place his or her name on the deed to the property as a joint tenant. You go to the clerk of court to record the deed and you get the shock of your life. You find out that you now owe an additional $350.00 in documentary stamp taxes. How can that be you wonder? The clerk informs you that under Florida Law when you marry and convey your property over to you and your new spouse, documentary stamp taxes are due on the outstanding balance of your mortgage secured by the property (but only for one half the amount).

The calculation goes like this, you take the outstanding $100,000.00 in debt (the mortgage) that remains due on the property. The new spouse causes the amount due (for calculation purposes) to divide the mortgage balance in half. So the $100,000.00 is now $50,000.00 for calculation purposes. You then multiply the $50,000.00 by .007 and you arrive at $350.00 which is the value of the documentary stamp tax to be paid. Yes, you get to pay those documentary stamp taxes again. The reason for charging documentary stamp taxes again is not explainable except to call it the marriage penalty. However, be aware that anytime you add a person to your deed and a mortgage exists on the property, documentary stamps are due.

The other oddity that I have seen recently is the homestead tax exemption. As you know, in Florida you receive a lock on the value of your residence when you first purchase residential property. The county property appraiser will determine a value (for calculation of your property taxes) when purchased, which will not increase any more than 3% or the consumer price index each year (whichever is less). Remember this is only allowed for property which is your permanent residence.

If you have moved from another State to Florida on a permanent basis, you may have received a homestead exemption in your former State. This is where the trap lies for the unwary. If you fail to terminate the homestead exemption in your former State, you will lose your Florida exemption. This could be exceptionally costly if it were to go on for multiple years. I have witnessed clients who had to pay upwards of $10,000.00 in back taxes to a Florida Tax Collector because of this misstep.

The primary reason why this occurs is the failure of your former State tax collectors and property appraisers do not communicate between themselves. Here is the typical scenario, upon leaving your former State, you send a note to the property appraiser informing them of your move South, but that does not mean they inform the tax collector department of the change. To ensure your exemption is terminated, you have to personally send a note to the tax collector and property appraiser in your former State informing them of the termination of your homestead exemption. Be sure to get a response from both tax collector and property appraiser; because, if termination is not done, no one is going to remember or dig out of your file that such correspondence occurred.

The local counties in Florida continually research to see if you are collecting a homestead tax exemption from the State where you came from. If you are still receiving such exemption, the local tax collector has no choice but to terminate your Florida homestead exemption and re-rate the value of your Florida home at full value, plus penalties and interest. Don't let this happen to you.

As you can see, paying close attention to your taxes and being mindful of your approach to adding people to your deed needs to be considered. If you are not certain about whether you will be responsible for documentary stamps or how to assure your Florida homestead tax deduction remains in tact, contact your local attorney and have that discussion.