FREQUENTLY ASKED QUESTIONS
10% ASSESSMENT INCREASE LIMITATION

Sections 193.1554 and 193.1555, Florida Statutes

The Department of Revenue received a number of questions about implementation of the 10% non-homestead assessment increase limitation under sections 193.1554 and 193.1555, F.S. While rules have not yet been developed for these provisions, the Department has proposed responses to these questions to assist with the administration of the 10% assessment limitation. Please send any questions or comments to DORPTO@dor.state.fl.us.

Please refer to Florida Statutes for further information.

1. What kinds of property are eligible for the 10% cap under ss. 193.1554, F.S., and 193.1555, F.S.?

Section 193.1554, F.S., relates to the assessment of nonhomesteaded residential property. As stated in subsection (1), this means residential real property that contains nine or fewer dwelling units that does not receive a homestead exemption under s. 196.031, F.S., including vacant property zoned and platted for residential use. Department of Revenue use codes for such property are: 00 – vacant residential; 01 – single family; 02 – mobile homes; 04 – condominia; 05 – cooperatives; and 08 – multi- family, less than 10 units.

Section 193.1555, F.S., relates to certain residential property and nonresidential real property. “Certain residential” property means residential property with more than 9 units; that is, nonhomesteaded residential property not assessed under s. 193.1554, F.S. The Department of Revenue use code for such property is 03 – multi- family, 10 units or more. “Nonresidential” property includes all nonresidential real property except for that referred to in s. 4(a), Article VII of the state constitution, which includes property classified for assessment as agricultural, high water recharge and noncommercial recreational. This includes property in all use codes other than those for residential property listed above, land classified as agricultural in use codes 50 – 69, and outdoor recreational or parkland or high- water recharge land subject to classified use assessment.

2. What are the differences in administration between ss. 193.1554 and 193.1555,F.S.?

The administration of s. 193.1554 and 193.1555, F.S., is very similar with four main differences. These are:

- Under s. 193.1554, F.S., there is no change in ownership if the transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage. This provision does not exist in s. 193.1555, F.S.
- Under s. 193.1555, F.S., property must be reassessed at just value if there is a “qualifying” improvement. A qualifying improvement means any substantially completed improvement that increases the just value of the property by at least 25 percent. “Improvement” is defined as an addition or change to land or buildings which increases their value and is more than a repair or a replacement. These provisions do not exist in s.193.1554, F.S.
- Under s. 193.1554, F.S., changes, additions, or improvements specifically include improvements made to common areas or other property that directly benefit the property. Such changes are to be assessed at just value and apportioned among the benefitting parcels. This provision does not exist in s. 193.1555, F.S.
- Under s. 193.1554, F.S., the provisions relating to the replacement of property damaged or destroyed by misfortune or calamity state that the assessed value is not to increase if the total square footage of the property as changed or improved does not exceed 1,500 square feet. This provision is not in s. 193.1555, F.S. The latter section, however, states that the improvements cannot have changed the property’s character or use, a provision not found in s. 193.1554, F.S.

3. **Are vacant parcels zoned for residential use, but not platted, to be assessed under 193.1554 or 193.1555, F.S.?**

   Section 193.1554, F.S., states that nonhomestead residential property assessed under that section includes "vacant property zoned and platted for residential use". Therefore if such property is platted it should be assessed under s. 193.1554. If the property is unplatted, but one of the uses under s. 193.1554 is legally permissible and determined by the property appraiser to be the most likely use, then it should also be assessed under that section.

4. **Can you clarify the meaning of the term "improvement" as used in s. 193.1555 (1)(b), F.S.?**

   Section 193.1555(1)(b), F.S., defines improvement as "an addition or change to land or buildings which increases their value and is more than a repair or a replacement." As used in s. 193.1555, F.S., the term is equivalent to new construction. If the property appraiser considers an improvement to the property to be new construction, then it should be considered an improvement as used in this section. If the property is repaired or some portion of the property replaced, but not significantly enough to be recorded as new construction by the property appraiser, then it would not be considered and improvement. If there is both new construction and a deletion to value, the improvement would be the net addition to just value.

5. **A non-homestead single family home is in poor condition. It is the eyesore of the neighborhood. A downward adjustment for condition lowers the assessed value significantly. The following year, the owner makes cosmetic improvements, but none that require building permits (painting, cleaning, etc.). Once completed, the adjustment is removed which increases the value more than 10%. Should the assessed value be capped at 10%, or should the improvements be placed on the roll at just value?**

   Paragraph (6)(a) of both s. 193.1554 and s. 193.1555, F.S., states that changes, additions, or improvements to non-homestead residential property shall be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed. Section 192.042(1), F.S., states that "substantially completed" means that the improvement or some self-sufficient unit within it can be used for the purpose for which it was constructed.

   Changes, additions and improvements that require substantial completion before they can be put to their intended use are typically those recorded as new construction by property appraisers. In applying paragraph (6)(a) of s. 193.1554 and s. 193.1555, F.S., if the change, addition or improvement is such that the property appraiser places a just value on the improvement as new construction, then the assessed value of the improvement would be equal to its just value. Otherwise, any increase in just value would be subject to the 10% assessment increase limitation, meaning that the assessed value of the entire parcel cannot exceed 110% of the prior year's assessed value.

6. **Suppose a property is contaminated and assessed at a very low amount because of that issue. Then the property is cleaned up. No construction, no improvements, just cleaned and given a clean bill of health by the regulating agency. Would it remain capped at the lower value?**

   If the property appraiser places a just value on the improvement as new construction, then the assessed value of the improvement would be equal to its just value. Otherwise, any increase in just value would be subject to the 10% assessment increase limitation, meaning that the assessed value of the entire parcel cannot exceed 110% of the prior year's assessed value.

7. **Please clarify the reference to subsection (7) in the following excerpt from s. 193.1555(6)(b), F.S. "… Property damaged or destroyed by misfortune or calamity which, after being changed or improved, has a square footage of less than 100 percent of the property's total square footage before the damage or destruction shall be assessed pursuant to subsection (7). …"**

As stated in footnote 2 in the statute, subsection (7) was renumbered as subsection (8) by another bill. The reference here is appears to be to subsection (8).

8. How should the 10% assessment increase limitation apply to property that loses its homestead status but does not change ownership?

Subsection (3) of both s. 193.1554 and 193.1555, F.S., states that the 10% assessment increase limitation applies "beginning in 2009, or the year following the year the property is placed on the tax roll, whichever is later". The year homestead property loses its homestead status and therefore its Save Our Homes cap and is placed on the roll as non-homestead property should be considered the base year, with assessed value equal to just value. The 10% cap would then apply in the following year. This also applies to property losing its agricultural classification but not changing ownership.

9. How should the 10% cap be calculated in the case of a parcel split or combination but no change in ownership?

Subsection (7) of both s. 193.1554 and 193.1555, F.S., states that any increase in the value of property attributable to combining or dividing parcels is to be assessed at just value and the just value apportioned among the parcels created.

Two cases will be discussed, one in which the assessed and just values of the parcels being split or combined were the same on the previous January 1st and a second case in which the assessed value on the previous January 1st was less than the just value due to the application of the 10% cap in earlier years. In both cases, the value of each new parcel on the following January 1st consists two parts:

- the increase in just value attributable to combining or dividing the parcels, and
- an allocated share of the just and assessed value of the original parcel.

In both of these cases, the property appraiser must determine a base just value and a base assessed value for each new parcel as of the January 1st preceding the split or combination. The property appraiser must then determine the just value of each newly created parcel based on the physical attributes of the parcel(s), as of the January 1st following the split or combination. Any parcels with a new just value greater than the base just value have increases in just value due to the split or combination. One hundred percent of these just value increases must be added to the prior's year's assessed value when determining the new assessed value after the split or combination.

In the first and simpler case in which the previous January 1 assessed value of the parcels being split or combined was the same as the just value, the assessed value of the new parcel or parcels will be equal to their just value on the January 1st following the split or combination. This is because the assessed value of the share of the original parcel value allocated to the new parcels equals the just value of such share, and any increase in just value attributable to the split or combination is placed on the roll with assessed value equal to just value.

In the second and more complicated case in which the assessed values of the parcel or parcels that are split or combined were less than their just value on the previous January 1st, any increase in just value attributable to the split or combination must be valued with assessed value equal to just value. Each new parcel would be allocated its share of the original just and assessed values, with the assessed value adjusted for the 10% increase under the cap.

The following table provides an example of these scenarios:

Split or Combination - Simple Case		
	Just Value (JV) Calculations	Assessed Value (AV) Calculations
Prior Year JV and AV For 100 Acre Tract (No Difference Between JV and AV)	$1,000,000	$1,000,000
Prior Year AV and JV (Administrative Values Only) For Each of 100 Lots From Dividing 100 Acre Tract	$10,000	$10,000
Next Year Ten % Increase in AV		$1,000
Next Year Increase in JV (Full) Due to Dividing	$15,000	
Next Year Increase in AV (Full) Based on Next Year Increase in JV		$15,000
Next Year Preliminary AV (Greater Than JV)		$26,000
Next Year Full JV and AV (Note That AV Cannot Be Higher Than JV)	**$25,000**	**$25,000**
Split or Combination - More Complicated Case		
	Just Value (JV) Calculations	Assessed Value (AV) Calculations
Prior Year JV and AV For 100 Acre Tract (Note Difference Between JV and AV)	$1,000,000	$800,000
Prior Year AV and JV (Administrative Values Only) For Each of 100 Lots From Dividing 100 Acre Tract	$10,000	$8,000
Next Year Ten % Increase in AV		$800
Next Year Increase in JV (Full) Due to Dividing	$15,000	
Next Year Increase in AV (Full) Based on Next Year Increase in JV		$15,000
Next Year Preliminary AV (Less Than JV)		$23,800
Next Year Full JV and AV (Note That AV Cannot Be Higher Than JV)	**$25,000**	**$23,800**

10. **On February 1, 2009, a 100 acre parcel with a just value on the 2009 tax roll of $1 million is split into 100 one acre parcels. For purposes of sending out the tax bills for that year, the value of the large parcel is allocated to each of the smaller parcels which are each valued with a just and assessed value of $10,000. On January 1, 2010, the just value of each of the new one acre parcels was $25,000, with $15,000 of this value determined by the property appraiser as attributable to dividing the parcel. Should the $10,000 value included on the 2009 tax bills be considered the base year value for the 10% cap?**

    No. The fact that the 2009 tax bills reflected only an apportioned share of the large parcel's value as of January 1st is an administrative function and does not represent the base value for the one acre parcel. In determining the just and assessed values of the new parcels on January 1, 2010, the examples in question 9 above should be followed based on the status of the parcel as a 100 acre parcel on January 1st, 2009.

11. **Does a change in zoning cause the cap to be removed from a property? Should any increase in value resulting from a zoning change be subject to the 10% cap?**

    Paragraph (6)(a) of both s. 193.1554 and s. 193.1555, F.S., states that changes, additions, or improvements to non-homestead residential property shall be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially complete. For purposes of the 10% assessment increase limitation, this provision appears intended to apply only to physical improvements. Thus, any increase in value resulting from the zoning change would be subject to the 10% assessment increase limitation.

12. **What category would a vacant parcel fall into when zoning is for a mixed use? For example, Zone OR-1 is Office Residential. Would a vacant parcel with this zoning be assessed under s.193.1554 or 193.1555, F.S.?**

    The answer depends on what the property appraiser considers the most likely use of the property. If the most likely use is as residential containing nine or fewer dwelling units, it would be assessed under s. 193.1554, F.S. If not, it would be assessed under s. 193.1555, F.S.

13. **For a duplex where the owner lives in and homesteads one of the two units, would the 10% assessment increase limitation under s. 193.1554, F.S., apply to the nonhomesteaded portion of the property?**

    Yes. Nonhomesteaded residential property with nine or fewer units should be assessed under s. 193.1554. F.S. This is true even if a portion of the property is homesteaded.

14. **On a single family residential property with one house and two owners as tenants in common with one owner not living on the property, is it the intent of s.193.1554, F.S., to subject that portion of the value not already receiving the homestead Save Our Homes cap to the 10% assessment increase limitation?**

    Yes. Nonhomesteaded single family residential property should be assessed under s. 193.1554. F.S. This is true even if the one tenant in common living in the house occupies the whole house.

15. **On a single family residential property with two houses but only one owner, is it the intent of s. 193.1554, F.S., to cap the second house at 10%?**

    If the second house is not being assessed as a homestead, the 10% assessment limitation would apply.

16. **We make a significant vacancy adjustment to recognize the loss of the only tenant in a large (500,000 sf) single occupant office building. Two years later, a new tenant is signed which would result in the removal of the vacancy adjustment. Should the property remain capped at the lower assessed value (adjusted for the 10% increase), or does the new tenant cause the property to be assessed at just value?**

    Presumably the property appraiser is making the vacancy adjustment so that the assessment reflects market value. If circumstances change (but not ownership) and market value increases, the 10% cap would apply.

17. **A taxpayer owns both a homesteaded single family home and the adjacent nonhomestead vacant lot. He has built up a nice assessment differential on both, one under Save Our Homes and one under the 10% cap. He requests that the vacant lot be joined to his homestead so that it would now also be capped at 3%. When the vacant lot is joined to the homestead, should it be added at just value, or should its 10% assessment differential be retained?**

It should be added at just value. Homesteaded property is excluded from the 10% cap. The Save Our Homes cap would apply in subsequent years.

18. **A property is classified as agricultural. The land receives the benefit of the lower classified use value and is not subject to the 10% cap. However, the buildings used as part of the agricultural operation receive no benefit from the classification. Would the improvements on an agricultural property be capped at 10%?**

    Only land can be classified and assessed based on agricultural use. Buildings or improvements on such land would be subject to the 10% cap.

19. **Does "recapture" come into play at all on the 10% assessment increase limitation?**

    The statute states that property subject to the 10% cap shall be reassessed annually with the increase in assessment not exceeding 10%. This increase should occur whether or not the just value increases, as long as assessed value does not exceed just value.

20. **If new construction on property assessed under s. 193.1555, F.S., increases the just value by 25% or higher, does the entire assessed value revert to market value or does only the value of the improvement revert to just value while the remainder of the property remains capped?**

    The entire assessed value reverts to market value on the following January 1st. If the value of the new construction is less than 25% of the property’s value, just the new construction would be added at just value. This provision does not apply to property assessed under s. 193.1554, F.S. For such property, only the new construction would be added at just value.