

Homestead Exclusion

An amendment to Article VIII of the Pennsylvania Constitution,¹ approved by the voters in November 1997, gave rise to the “homestead exclusion.” This exclusion provides an exception from the uniformity of taxation requirement that is also set forth in Article VIII.² The General Assembly implemented the constitutionally-approved homestead exclusion by enacting Act 50 of 1998.³ Act 50 permitted “local taxing districts” which included counties, municipalities and school districts, to exclude from real estate taxation a portion of the assessed value of homestead property.⁴ Act 50 also provided for a farmstead exclusion⁵ using preexisting constitutional authority.

The homestead exclusion is a flat-rate uniform dollar amount, which cannot exceed 50 percent of the median⁶ value of all homestead property within the taxing jurisdiction as certified by the county assessment office. If different millage rates are applied to land and buildings, the exclusion is applied first to buildings. The owner or owners of real property seeking to have such approved as homestead property or a farmstead⁷ must file an application with the county assessment office no later than March 1 of each year.⁸ Act 50 requires a taxing district granting a homestead exclusion to provide a similar exclusion for farmstead property by a fixed dollar amount not to exceed the

¹ Pa. Const. art. XIII, § 2(b)(vi).

² Pa. Const. art. XIII, § 1.

³ 53 Pa.C.S. §§ 8401, 8581-8588, in relevant part.

⁴ A homestead is generally considered to be a dwelling and the land on which the dwelling sits, as well as any other improvements on that land so long as one of the following three situations applies: (1) an owner-occupied dwelling (land included, only if the owner of the dwelling also owns the land beneath it); (2) an owner-occupied condominium or cooperative where the assessed value is based on the individual unit or in some cases the pro rata share of the real property; or (3) if a dwelling does not otherwise qualify under the previous two situations, that portion of the real property that is occupied by the owner of that portion. An “owner” is considered to be only a natural person or natural persons rather than an organization, association or corporate entity. 53 Pa.C.S. § 8401.

⁵ “The exclusion for farmstead property shall be authorized pursuant to section 2(b)(i) of Article VIII of the Constitution of Pennsylvania. This exclusion shall apply uniformly to each farmstead property within the taxing jurisdiction.” 53 Pa.C.S. § 8585(a).

⁶ Median assessed value is defined as the “value which is the middle point in the sequential distribution of assessed values, above and below which exist an equal number of assessed values.” 53 Pa.C.S. § 8582.

⁷ “Farmstead” is defined as “[a]ll buildings and structures on a farm not less than ten contiguous acres in area, not otherwise exempt from real property taxation or qualified for any other abatement or exclusion pursuant to any other law, that are used primarily to produce or store any farm product produced on the farm for purposes of commercial agricultural production, to house or confine any animal raised or maintained on the farm for the purpose of commercial agricultural production, to store any agricultural supply to be used on the farm in commercial agricultural production or to store any machinery or equipment used on the farm in commercial agricultural production. This term shall only apply to farms used as the domicile of an owner.” 53 Pa.C.S. § 8582.

⁸ 53 Pa.C.S. § 8584(b).

amount of the exclusion for homestead property.⁹ A taxing jurisdiction may not increase its millage rate on real property to pay for the homestead and farmstead exclusions.¹⁰

Homestead and farmstead exclusions are predominately granted by school districts. Act 50, along with the successor enactments, the Homeowner Tax Relief Act (Act 72 of 2004)¹¹ and the Taxpayer Relief Act (Act 1 of 2006, Special Session 1),¹² exclusively granted to school districts additional taxing powers in order to fund the homestead and farmstead exclusions. Act 50, which still applies to counties and municipalities, does not grant additional taxing powers to those political subdivisions.

Municipalities are permitted to use a portion of the revenues raised from the levy of the Local Services Tax via the Local Tax Enabling Act¹³ for the purpose of funding homestead and farmstead exclusions. Conditions are specified in the act.¹⁴

Act 1 utilizes state gaming revenues and a local shift to an earned income tax (EIT) or a personal income tax (PIT) for the purpose of funding school property tax reductions for qualified homestead and farmstead properties.¹⁵ Most of the money used for property tax exclusions comes from state gaming revenues pursuant to the Pennsylvania Race Horse Development and Gaming Act (Act 71 of 2004).¹⁶ The property tax relief formula used to distribute gaming revenues for property tax reduction payments for school districts is set forth in Chapter 5 of Act 1. Funds are allocated based on a school district's tax capacity, tax effort and tax burden.

All the property tax relief fund money that school districts receive must be used solely for real property tax reductions given through homestead and farmstead exclusions. If the amount of state money varies from year to year, districts are allowed to adjust the size of the exclusions to compensate.

⁹ 53 Pa.C.S. § 8585(b).

¹⁰ Pa. Const. art. XIII, § 2(b)(vi); 53 Pa.C.S. § 8586(b).

¹¹ Act 72 of 2004 (53 P.S. § 6925.101 et seq.), repealed by Tax Payer Relief Act, Act 1, Special Session 1, of 2006 (53 P.S. § 6926.101 et seq.), eliminated the ability of school districts to opt into Act 50 of 1998.

¹² Tax Payer Relief Act, modified by Act 25 of 2011.

¹³ Act 511 of 1965 (53 P.S. § 6924.101 et seq.).

¹⁴ *Id.* at § 330 (53 P.S. § 6924.330).

¹⁵ *See Deskbook* article entitled "Taxpayer Relief Act."

¹⁶ 4 Pa.C.S. § 1101 et seq.

In November, 2017, Pennsylvania voters approved an amendment to the state Constitution to change the authorized homestead/farmstead exclusion offered by local taxing authorities from one-half of the median assessed value of all homestead property within a local taxing jurisdiction to one hundred percent of the assessed value of each homestead property within the jurisdiction.

[Effectively,] the ballot question would allow the General Assembly to pass a law increasing the amount of assessed value that local taxing authorities may exclude from real estate taxation for homestead property.... The ballot question, by itself, does not authorize local taxing authorities to exclude up to one-hundred percent (100%) of the assessed value of each homestead property from real estate taxation. Local taxing authorities could not take such action unless and until the General Assembly passes a law authorizing them to do so. The ballot question authorizes the General Assembly to pass that law.¹⁷

¹⁷ Plain English Statement of the Office of Attorney General regarding the November 2017 amendment to the Pennsylvania Constitution, Pennsylvania Department of State Public Notice. *Available at* <http://www.dos.pa.gov/VotingElections/CandidatesCommittees/RunningforOffice/Documents/ConstAmend-10.5x17.pdf> (November 21, 2017).