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Estate Planning Update December 2017 - Is Your Florida Home a Homestead?

Florida's homestead laws provide some of the most generous benefits in any state. For your Florida home to qualify as your homestead, you and your home must meet the following requirements: (1) you must have legal title to your home or a beneficial interest in your home (e.g., as the beneficiary of a trust), and (2) you must reside in your home as your permanent residence. In addition, to receive the real estate tax benefits described below, you must own your interest in the home prior to January 1 of the year in which you are claiming homestead and apply for the homestead exemption with the county property appraiser's office prior to March 1 of the year in which you are seeking the initial homestead exemption.

The benefits of Florida's homestead laws are generally divided into three categories. The first, and probably the most famous, generally protects the owner of a homestead from the claims of creditors, regardless of the value of the homestead. The second caps the annual increase on the assessed value of a homestead at 3 percent, or the change in the consumer price index, whichever is less, and also reduces the value of a homestead by \$50,000 for real estate tax purposes, providing significant savings. The third restricts testamentary or certain lifetime transfers of a homestead. If the owner of a homestead is survived by a spouse or minor children, certain restrictions ensure that the homestead passes to the spouse or minor children.

While Florida's homestead laws provide significant benefits and planning opportunities, their complexity creates several traps for the unwary. If you are a Florida resident with minor children, are concerned with protecting your assets from creditors, or are considering making your second home in Florida your permanent residence, please contact your Day Pitney attorney so we may help you avoid potential pitfalls and take maximum advantage of Florida's homestead laws.