

# HISTORY

## *Land ownership*

In England, at least until the mid-1600's, and arguably until William Blackstone's time in the mid-1700's, property was exclusively owned by the King. In arbitrary governments the title is held by and springs from the supreme head, be he the emperor, king, dictator, or by whatever name he is known. It was stated and thus a known fact, that if the King felt it justified, he could just take the land from one baron and give such land to another prospective baron. *The king was the true and complete owner, giving him the authority to take and grant the land from the people in his kingdom to who either lost or gained his favor.* **McConnell v. Wilcox**, 1 Seam (111.) 344, 367 (1837).

This is hardly what the forefathers planned for when creating the United States Constitution, if this were what the people in the mid to late 1700's wanted, there would have been no need to have an American Revolution, since the taxes were secondary to having a **sound and complete ownership of the land**. When the colonists were forced to pay taxes and were required to allow their homes to be occupied by soldiers; they revolted, fighting the British, and declaring their Declaration of Independence. The colonists came to America to avoid taxation without representation, to avoid persecution of religious freedom, to **escape sovereign control and virtual dictatorship over the land**, and to acquire a small tract of land that could be owned completely. *Having broken away from the English sovereignty and establishing themselves as their own sovereigns, and equally important, ownership of land. The American founding fathers chose allodial ownership of land for the system of ownership on this country.* **Wendell v Crandall**, 1 N. Y. 491 (1848).

*“The American people, before developing a properly functioning stable government, developed a stable system of land ownership, whereby the people owned their land absolutely and in a manner similar to the king in common-law England. As **“allodium”** which means or is defined as man's own land, which he possesses merely in his own right, without owing any rent or service to any superior.”* **Wallace v Harmstead**, 44 Pa. 492 (1863).

**“Allodium”** (Black’s Law Dictionary 6<sup>th</sup> Edition).

Land held absolutely in one’s own right, and not of any lord or superior; land not subject to feudal duties or burdens. An estate held by absolute ownership, without recognizing any superior to whom any duty is due on account thereof.

The American people, newly established sovereigns in this republic after the victory achieved during the Revolutionary War, became complete owners in their land, beholden to no lord or superior; as sovereign freeholders in the land themselves. These freeholders in the original thirteen states now held **allodial** **the land they possessed before the war only feudally**. *“This new and more powerful title protected the sovereigns from unwarranted intrusions or attempted takings of their land, and more importantly it*

secured in them a right to own land absolutely in perpetuity.” *Chisholm v. Georgia*, 2 Dall. (U.S.) 419 (1793); *McConnell v. Wilcox*, 1 Seam. (IR.) 344 (1837) as quoted in *Leading Fighter v. County of Gregory*, 230 N.W.2d 114, 116 (1975).

“Perpetuity” (Black’s Law Dictionary 5th Edition p.1027).

Continuing forever. Legally, pertaining to real property, any condition extending the inalienability... **In terms of an allodial title, it is to have the property of inalienability forever.** Nothing more need be done to establish the ownership of the sovereigns to their land, although confirmations were usually required to avoid possible future title confrontations.

As stated in re *Waltz et. al., Barlow v Security Trust & Savings Bank*, (1925), quoting *Matthews v Ward*, 10 Gill & J. (Md.) 443 (1839); “after the American Revolution, lands in this state (Maryland) became allodial, subject to no tenure, nor to any services incident there to.”

“Allodial” (Black’s Law Dictionary 6<sup>th</sup> Edition).

Free; not holden of any lord or superior; owned without obligation of vassalage or fealty; the opposite of feudal.

*An estate of inheritance without condition, belonging to the owner, and alienable by him, transmissible to his heirs absolutely and simply, such an estate is an absolute estate in perpetuity and the largest possible estate a man can have, being, in fact allodial in its nature. This type of fee simple, as thus developed, has definite characteristics: (1) it is a present estate in land that is of indefinite duration; (2) it is freely alienable; (3) it carries with it the right of possession; and most importantly (4) the holder may make use of any portion of the freehold without being beholden to any person. *Stanton v Sullivan*, 63 R.I. 216, 7 A. 696 (1839).*

The United State Supreme Court and state courts alike have stated as a matter of FACT from the very first day as in the case of *Chisholm vs. Georgia* (1793) up to and beyond *Leading Fighter vs. County of Gregory*, (1975) that the United States Constitution secured the sovereign people the substantive right to own land absolutely in perpetuity establishing ownership and possession not subject to any lord, superior, feudal duties or burdens and without obligation of vassalage. In doing so a government of and for the people was thereby established to protect the people’s sovereign right to allodial title of the land subject to no tenure as in TITLE AT LAW, which establishes an ALLODIAL FREEHOLD that is judgment proof and even immune from taxation.

*This type of superior title was bestowed upon the newly established American people by the founding fathers. The people were sovereigns by choice, and through this new type of land ownership, the people were sovereign freeholders or kings over their own land, beholden to no lord or superior. *United States v Sunset Cemetery Co.*, 132 F. 2d 163 (1943).*

# **TAXATION**

When the constitution was drafted the founding fathers were every clear that they did not want the country to be run on the backs of the people as in their labor and their land, (*See Federalist, No. 30*) once again if this were what the people in the late 1700's wanted, there would have been no need to have an American Revolution. The U.S. **Constitution Article I, Section 8, Clause 1** clearly defines the limitation of taxation to **duties, imposts** and **excises** to be the only form of taxation to pay debts of and to provide for the needs of the government.

## **U.S. Constitution**

**Article I, Section 8, Clause 1:** “The Congress shall have power to lay and collect **taxes**’ **duties, imposts** and **excises** to pay debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be **uniform** throughout the United States.”

# **DEFINITIONS**

**NOTE:** When a definition is encounter in the law, **the law defines the word to purposely exclude** **the word from the common definition**, not to add to the common meaning or definition.

**73 Am Jur 2d § 146 Operation of legislative definitions, generally**  
The lawmaking body’s own construction of its language, by means of definitions of the term employed, should be followed in the interpretation of the act or section to which it relates and is intended to apply. By the same token, the courts **should not enlarge statutory definitions so as to include a situation or a condition which it might be assumed the legislature would have covered by an enlarged definition if its existence had been contemplated. A statutory definition supersedes the common-law** and commonly accepted, dictionary or judicial definition. **In this regard, where statute itself contains a definition of a word used therein, the definition controls**, however contrary to the ordinary meaning of the word it may be, and the term may not be given the meaning in which it is employed in another statute, although the two may be in pari

material. Where the legislature has defined words which are employed in a statute, **its definitions are binding on the courts since the legislature has the right to give such signification as it deems proper to any word or phrase used by the statute,** irrespective of the relationship of the definition to other terms. Furthermore, where a word that already has a definite, fixed, and unambiguous meaning is redefined in a statute, the definition must be taken literally by the courts.

## **KEY DEFINITIONS**

Art. I, Sect. 8, of the constitution, it is said, "*Congress shall have power to lay and collect **taxes, duties, imposts, and excises.***"

**"Taxes"**. (Black's Law Dictionary 6<sup>th</sup> Edition).

The apportionment of a tax consists in a selection of the **subjects to be taxed**, and laying down the rule by which to measure the contribution which each of these subjects shall make to the tax.

**TAXES**. (Bouvier 1856, 6<sup>th</sup> Edition).

This term in its most extended sense includes all contributions **imposed by the government upon individuals for the service of the state, by whatever name they are called or known,** whether by the name of tribute, tithe, talliage, impost, duty, gabel, custom, subsidy, aid, supply, excise, or other name.

2. The 8th section of art. 1, Const. U. S. provides, that "congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay," &c. "**But all duties, imposts and excises** shall be uniform throughout the United States."

3. In the sense above mentioned, taxes are usually divided into two great classes, those which are direct, and those which are indirect. Under the former denomination are included **taxes on land or real property**, and under the latter taxes on **articles of consumption**. 5 Wheat. R. 317.

4. Congress has plenary power over every species of **taxable property**, except exports. But there are two rules prescribed for their government, the **rule of uniformity and the rule of apportionment**. **Three kinds of taxes**, namely, **duties, imposts and excises** are to be laid by the first rule; and **capitation** and other direct taxes, by the second rule.

Should there be any other species of taxes, not direct, and not included within the words duties, imposts or customs, they might be laid by the rule of uniformity or not, as congress should think proper and, reasonable. Id.

5. The word taxes is, in a more confined sense, sometimes applied in contradistinction to **duties, imposts** and, **excises**. Vide, generally, Story on the Const. c. 14; 1 Kent, Com. 254; 8 Dall. 171; 1 Tuck. Black. App. 232; 1, Black. Com. 308; The Federalist, No. 21, 36; Woodf. Landl. and Ten. 197, 254.

“Excise tax” (Black’s Law Dictionary 6<sup>th</sup> Edition).

A **tax imposed on the performance of an act**; the **engaging in an occupation**, or the **enjoyment of a privilege**. *Rapa vs. Haines*, Ohio Com.Pl., 101 N.E.2d 733, 735. A tax on **manufacture, sale, or use of goods or on the carrying on of an occupation or activity, or a tax on the transfer of property**. In current usage the term has been extended to include various license fees and practically every internal revenue tax **except the income tax** (e.g., federal alcohol and tobacco excise taxes, IRC § 5001 et seq.)

**EXCISES.** (Bouviera 1856 Edition).

This word is used to signify an **inland imposition**, paid sometimes upon the **consumption of the commodity**, and frequently upon the **retail sale**. 1 Bl. Com. 318; 1 Tuck. Bl. Com. Appx. 341; Story, Const. \_950.

“Imposts” (Black’s Law Dictionary 6<sup>th</sup> Edition).

**Taxes, duties, or impositions** levied for **divers** reasons. *Crew Levick Co. vs. Commonwealth of Pennsylvania*, 245 U.S. 292, 38 S.Ct. 126, 62 L.Ed. 295. Generic term for taxes.

**IMPOSTS.** (Bouviera 1856 Edition).

This word is sometimes **used to signify taxes, or duties, or impositions**; and, sometimes, in the more restrained sense of a duty on **imported goods and merchandise**. The Federalist, No. 30; 3 Elliott’s Debates, 289; Story, Const. 949.

2. The Constitution of the United States, art. 1, s. 8, n. 1, gives power to congress "to lay and collect **taxes, duties, imposts and excises**." And art. 1, s. 10, n. 2, directs that "**no state shall, without the consent of congress**, lay any imposts, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws." See Bac. Ab. Smuggling, B; 2 Inst. 62; Dy. 165 n.; Sir John Davis on Imposition.

“Duties” (Black’s Law Dictionary 6<sup>th</sup> Edition).

In its most usual signification **this word is the synonym of imposts or customs; i.e. tax**

**on imports**; but it is sometimes used in a broader sense, as including all manner of **taxes, charges, or governmental imposition**.

**DUTIES.** (Bouviera 1856 Edition).

In its most **enlarged sense**, this word is nearly **equivalent to taxes, embracing all impositions** or **charges levied on persons or things**; **in its more restrained sense**, it is often used as **equivalent to customs**, (q. v.) or **imposts**. (q. v.) Story, Const. \_949. Vide, for the rate of **duties payable on goods and merchandise**, *Gord. Dig. B. 7, t. 1, c. 1*; Story's L. U. S. Index, h. t.

**[Code of Federal Regulations]**

**[Title 26, Volume 1]**

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PART 1 **INCOME TAXES**--Table of Contents

**Sec. 1.441-1 Period for computation of taxable income.**

(8) **Taxpayer.** **Taxpayer** has the same meaning as the term **person** as defined in section 7701(a)(1) (e.g., an **individual**, trust, estate, partnership, association, or corporation) rather than the meaning of the term taxpayer as defined in section 7701(a)(14)(any person subject to tax).

**“Individual”.** (Black’s Law Dictionary 6<sup>th</sup> Edition).

As a noun, this term denotes a single person as distinguished from a group or class, and also, very commonly, a private or natural person as distinguished from a partnership, corporation, or association; **but it is said that this restrictive signification is not necessarily inherent in the word, and that it may, in proper case, include artificial persons.**

As an adjective, “individual” means pertaining or belonging to, or characteristic of, one single **person**, either in opposition to a firm, association, or corporation, or considered in his relation thereto.

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**26 USC Sec. 7701**

**TITLE 26 - INTERNAL REVENUE CODE**

Subtitle F - Procedure and Administration

**CHAPTER 79 - DEFINITIONS**

**Sec.7701. Definitions**

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof –

(1) **Person**

The term "person" shall be construed to mean and include an **individual**, a trust, estate, partnership, association, **company or corporation**.

(14) **Taxpayer**

The term "taxpayer" means any **person** subject to any internal revenue tax.

**FLORIDA STATUTES CHAPTER 198; ESTATE TAXES**

**F.S. § 198.01 Definitions.**--When used in this chapter the term, phrase or word:

(3) "**Person**" means persons, **corporations**, **associations**, **joint stock companies**, and **business trusts**.

**FLORIDA STATUTES CHAPTER 192; TAXATION: GENERAL PROVISIONS**

**F.S. § 192.001 Definitions.**--The following definitions shall apply in the imposition of ad valorem taxes:

(13) "**Taxpayer**" means **the person or other legal entity** in whose name property is assessed, including an agent of a timeshare period titleholder.

**FLORIDA STATUTES CHAPTER 220; INCOME TAX CODE**

**F.S. § 220.03 Definitions.**—

(z) "**Taxpayer**" **means any corporation** subject to the tax imposed by this code, and includes all corporations for which a consolidated return is filed under s. 220.131.

**Florida Administrative Code**

**12D-2.001 Definitions.**

The following definitions shall apply to property assessed by the Department:

(10) "**Person**" – As defined in Section 1.01, Florida Statutes, and including any "company". Unless otherwise specifically provided, the word "**company**" **may be used interchangeably with the word "person."**

**Florida Statutes**

**F.S. § 1.01 Definitions.**--In construing these statutes and each and every word, phrase, or part hereof, where the context will permit:

(3) The word "**person**" includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

"**Person**" (Black's Law Dictionary 6<sup>th</sup> Edition).

In general usage, a human being (i.e. natural person), **though by statute term may include labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.**

*"In common usage, the term 'person' does not include the sovereign, and statutes employing the word are ordinarily construed to exclude it." Wilson v. Omaha Indian Tribe, 442 US 653, 667 (1979).*

**"Situs" Lat. (Black's Law Dictionary 6<sup>th</sup> Edition).**

Location or place of crime or **business**, or the right or power to tax it. Situs of property, for tax purposes, is **determined by whether the taxing state has sufficient contact with personal property sought to be taxed** to justify in fairness the particular tax. *Town of Cady vs. Alexander Const. Co.*, 12 Wis2d 236, 107 N.W.2d 267,270.

**"Business situs" (Black's Law Dictionary 6<sup>th</sup> Edition).**

A situs acquired for tax purposes by **one who has carried on business in the state more or less permanent in its nature**. A situs arising when notes, mortgages, tax sale certificates and like are brought into the state for something more than a temporary purpose, and are **devoted to some business use there and thus become incorporated with the property of the state for revenue purpose**. A situs arising where possession and control of property right has been localized in some independent **business** or investment away from owner's domicile so that its substantial use and value primarily attach to and become an asset of the outside business. *State vs. Atlantic Oil Producing Co.*, 174 Okl. 61, 49 P.2d 534, 538.

**"Tax situs" (Black's Law Dictionary 6<sup>th</sup> Edition).**

A state or jurisdiction which has a substantial relationship to assets subject to taxation.

**SITUS.** (Bouvier 1856 Edition). Situation; location. 5 Pet. R. 524.

2. Real estate has always a fixed situs, while personal estate has no such fixed situs; the law rei site regulates real but not the personal estate. Story, Confl. of Laws, \_379.

**"Ad valorem tax" (Black's Law Dictionary 6<sup>th</sup> Edition).**

According to value. A tax levied on **property or an article of commerce** in proportion to its value, as determined by assessment or appraisal. *Callaway v. City of Overland Park*, 211 Kan. 646, 508 P.2d 902, 907.

**AD VALOREM.** *According to the value.* (Bouvier 1856, 6<sup>th</sup> Edition).

This Latin term is **used in commerce** in reference to certain **duties**, called ad valorem duties, which are **levied on commodities** at **certain rates per centum on their value**. See Duties; Imposts; Act of Cong. of March 2, 1799, s. 61 of March 1, 1823 s. 5.

*"Because an owner-occupied residence not used for any commercial purpose does not qualify as property 'used in' commerce or commerce-affecting activity, arson of such a dwelling is not subject to...prosecution..." Jones v. United States, 529 U.S., 146 L Ed 2d 902, 120 S.Ct. (May 22, 2000).*

“Property Tax”. (Black’s Law Dictionary 6<sup>th</sup> Edition pg.1458).

Generic term describing a tax levied on the basis of the value of either personal or real property owned by the **taxpayer**.

“Actual market value” (Black’s Law Dictionary 6<sup>th</sup> Edition).

In **custom laws**, the price at which **merchandise is freely offered for sale** to all purchasers; the **price which the manufacturer or owner would have received for merchandise**, sold in the ordinary **course of trade** in the usual wholesale quantities.

The U.S constitution clearly defines the limitation of taxation to **duties, imposts** and **excises**, of **taxable property**; except exports. The two rules prescribed by the U.S constitution are the **rule of uniformity and the rule of apportionment** and **three kinds of taxes**, namely, **duties, imposts** and **excises** all commercial terms in accordance with the above statutory and legal definitions truly involving a connection with manufacturing, trade and traffic including buying and selling; as in business actively; or commerce in general conducted within the **situs** of the State by some legal entity clearly defined by the Florida state statutes § 192.001(13) and § 220.03(z) as the **taxpayer**.

## **THE FLORIDA REVENUE CODE**

The construction of the U.S constitution, Florida state constitution, the Florida state statutes and the Florida Administrative Code makes it obviously clear, whose property is lawfully intended to be regulated, taxed, and controlled and which “Person” is liable to pay such a tax, and clearly states the exemptions from all taxation of such “Person.” Keep in mind that all government codes, rules, regulations and statutes can only apply to the States sovereign lands, government employees and what government is or has created. **Even the Municipal Corporation known to most as local Government cannot violate the constitutional rights of the People to fund its functions.**

**Florida State Constitution Article VII Sec 3 (b). Taxes; Exemptions.**

“**There shall be exempt from taxation**, cumulatively, to every head of a family residing in this state, **household goods and personal effects** to the value fixed by general law”

**F.S. § 196.181 Exemption of household goods and personal effects.--There shall be exempt from taxation** to every person residing and making his or her permanent home in this state **household goods and personal effects**. **Title** to such **household goods and personal effects** may be held individually, by the entireties, jointly or in common with others.

Florida Administrative Code

## 12D-7.002 Exemption of Household Goods and Personal Effects.

Only **household goods and personal effects** of the **taxpayer** which are actually employed in the use of serving the **creature comforts** of the owner and **not held for commercial purposes** are entitled to the exemption provided by *Section 196.181*, Florida Statutes. “**Creature comforts**” **are things which give bodily comfort, such as food, clothing and shelter. Commercial purposes includes** owning household goods and personal effects as **stock in trade** or as furnishings in **rental dwelling units**.

The Florida State Constitution Article VII Sec 6 (a) states;

“*Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon. The real estate may be held by legal or equitable title, by the entirety, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner’s or member’s proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years.*”

### F.S. § 196.031 Exemption of homesteads.--

<sup>1</sup>(1) Every person who, on January 1, has the legal title or beneficial title in equity to real property in this state and **who resides thereon and in good faith makes the same his or her permanent residence**, or the permanent residence of another or others legally or naturally dependent upon such person, **is entitled to an exemption from all taxation.**

### F.S. § 195.027 Rules and regulations. --

(1) The Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and such **rules and regulations shall be followed** by the property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards. **It is hereby declared to be the legislative intent** that the department shall **formulate such rules and regulations that property will be assessed, taxes will be collected, and the administration will be uniform, just, and otherwise in compliance with the requirements of the general law and the constitution.**

“**House**”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

**Structure that serves as living quarters** for one or more persons or families.

“**Shelter**”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

In statute relating to the provisions of food, Clothing and shelter for one’s children, term generally refers to a **home** with proper environments, as well as **protection from the weather.**

“**Household**” *adj.* (Black’s Law Dictionary 6<sup>th</sup> Edition).

Belonging to the **house** and Family; domestic.

“**Home**” (Black’s Law Dictionary 6<sup>th</sup> Edition).

One’s own dwelling place; the **house** in which one lives, especially the **house** in which one lives with his family; the habitual abode of one’s family; a **dwelling house**. *Mann v. Haines*, 146 Kan. 988, 73 P.2d 1066,1072.

“**Comfort**”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

Benefit, consolation, contentment, ease, enjoyment, happiness, pleasure, or satisfaction.

**“Personal Effects”**. (Black’s Law Dictionary 6<sup>th</sup> Edition).

Articles associated with person, as property having more or less intimate relation to person of possessor; “effects” meaning movable or chattel property of any kind. Usual reference is to such items as the following owned by a decedent at the time of death: clothing, furniture, jewelry, stamp and coin collections, silver, china, crystal, cooking utensils, books, **cars**, televisions, radios, etc.

**“Household”**. *n.* (Black’s Law Dictionary 6<sup>th</sup> Edition).

A family living together. *Schurler v. Industrial Commission*, 86 Utah 284, 43 P.2d 696, 699. **Those who dwell under the same roof and compose a family.**

Term “household” is generally synonymous with “family” for insurance purposes, and includes **those who dwell together as a family under the same roof**. *Van Overbeke v. State Farm Mut. Auto. Ins. Co.*, 303 Minn. 387, 227, N.W.2d 807, 810.

Generally, the term “household” as used in automobile policies is synonymous with “home” and “family.” *Bartholet v. Berkness*, 291 Minn. 123, 189 N.W.2d 410, 412.

The Florida state statutes § 192.001-(13) and § 220.03(z) defines the **taxpayer** as a corporation or other legal entity and that the word **taxpayer has the same meaning as the term person** pursuant to title 26 CFR Sec. 1.441-1(8), F.S. § 198.01(3) and the Florida Administrative Code 12D-2.001(10). Florida statute § 196.181 and the Florida Administrative Code 12D-7.002 defines household goods and personal effects of the **taxpayer** to be Creature comforts “*things which give bodily comfort, such as food, clothing and Shelter*” and states that such Creature comforts shall be exempt from taxation. The Black’s Law Dictionary 6<sup>th</sup> Edition defines “**Shelter**” as a, “*term generally refers to a home*” as well as “*protection from the weather.*” Black’s Law Dictionary 6<sup>th</sup> Edition defines the word “Home” as a “House,” (“*One’s own dwelling place; the house in which one lives with his family; a dwelling house*”). Also Black’s Law Dictionary 6<sup>th</sup> Edition defines “Household” as “*Belonging to the house and Family*” also “*Generally, the term “household” as used in automobile policies is synonymous with “home.”*” **The Florida State Constitution Article VII Sec 3 (b)** states that those “*household goods and personal effects to every head of family residing in this state are exempt from taxation.*” The Florida State Statute §196.181 (Exemptions chapter) makes it very clear that the “**title**” to such household goods and personal effects shall be **exempt from taxation**, and Florida State Statute F.S. § 196.031(Exemptions chapter) tells us that “*Every person who has the legal title or beneficial title in equity to real property in this state and who resides thereon and in good faith makes the same his or her permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation.” **The Florida State Constitution Article VII Sec 6 (a)** states that “*Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon.” F.S. §195.027 (Rules and regulations) makes it very clear that the legislative intent is to be “*in compliance with the requirements of the general law and the constitution.*”**

**“Title”**. (Black’s Law Dictionary 6<sup>th</sup> Edition).

Title is the **means whereby the owner of lands has the just possession of his property**. The union of all the elements which constitute ownership. Full independent and fee ownership. The right to or ownership in

land; also, the evidence of such ownership. Such ownership may be held individually, jointly, in common, or in cooperate or partnership form. **One who holds vested rights in property is said to have title** whether he holds them for his own benefit or for the benefit of another.

**"Ownership"**. (Black's Law Dictionary 5th Edition).

The complete dominion, title, or proprietary right in a thing or claim. The entirety of the powers of use and disposal by law. The exclusive right of possession, enjoyment, and disposal. **Ownership of property is absolute or qualified. The ownership of property is absolute when a single person has absolute dominion over the property. The ownership is qualified when use of the property is restricted.**

**NOTE:** So one must ask themselves what do we have "title" to; the couch, the TVs, lamps, tables, beds, or the DVD and CD collection or maybe the refrigerator? NO we have title to the land and the structures (*Houses, barns, sheds, etc.*) that sit upon that land in the allodial sense, as in complete Perpetuity, not holden of any lord or superior; owned without obligation as granted by the original land patents and protected by the state and federal Constitutions. State courts across the nation over the past two hundred years have ruled that "question of legal title cannot be tried or decided" *Merrill v. Wright*, 65 Neb 794, 91 NW 697; *Schenck v. Conover*, 13 NJ Eq 220; *Exum v. Baker*, 115 NC 242, 20 SE 448; *Stanley v. Sullivan*, 71 Wis 585, 37 NW 801. This technically tells us that land "ownership" in America is truly absolute, therefore no lawful court of the land can even hear the matter involving legal title, because there can be no lawful claim against one who holds legal title, legal title is absolute and held in complete Perpetuity.

**"Commercial Use"**. (Black's Law Dictionary 6th Edition).

Term implies use in connection with or for furtherance of a **profit-making enterprise**. *Roberts Enterprises, Inc. v. Secretary of Transp.*, 237 Kan. 276, 699 P.2d 479, 483.

As stated above "*household goods and personal effects*" are defined technically as "**things which give bodily comfort such as Shelter**" (*house*) and that the title to such "household goods and personal effects" (*House* and the "land" it sits upon) used solely for the creature comforts of the **taxpayer/owner** and **not devoted to some business or commercial purposes shall be exempt from taxation; therefore the use of such property solely for exempt purposes [as in nonbusiness, noncommercial, nonprofit use] is expressly exempted from taxation.** Remember the legislative intent is to be "*in compliance with the requirements of the general law and the constitution.*"

**F.S. § 196.012 Definitions.**--For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(2) **"Exclusive use of property"** means **use of property solely for exempt purposes**.

Such purposes may include more than one class of exempt use.

(13) **"Real estate used and owned as a homestead"** means **Real Property** to the extent provided in s. **6(a), Art. VII of the State Constitution**, but less any portion thereof **used for commercial purposes**, with the **title of such property being recorded** in the official records of the county in which the property is located. **Property rented for more than 6 months is presumed to be used for commercial purposes.**

(17) **"Permanent resident"** means a **person** who has established a permanent residence as defined in subsection (18).

(18) **"Permanent residence"** means that place where a **person** has his or her true, fixed, and **permanent home** and principal establishment to which, whenever absent, he or she has the intention of returning. A **person** may have only one **permanent residence** at a time; and, once a **permanent residence** is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred.

**"Commercial"**. (Black's Law Dictionary 6<sup>th</sup> Edition).

Relates to or is connected with **trade and traffic or commerce in general**; is occupied with **business and commerce**. *Anderson v. Humble Oil & Refining Co.*, 226 Ga. 252, 174, S.E.2d 415, 416. (Generic term for most all aspects of buying and selling).

**"Estate"** (Black's Law Dictionary 6<sup>th</sup> Edition).

"Estate" is commonly used in conveyances in connection with the words "**right**," **title**," and "**interest**," and is, in a great degree, **synonymous with all of them**.

*"The condition or circumstance in which the owner stands with regard to his property."* *Boyd vs. Sibold*, 7Wash.2d 279, 109 P.2d 535, 539.

#### **Florida Administrative Code**

##### **12D-1.002 General Rules- Definitions**

(7) **"Homestead"** and **"Homestead Property"** – Means that property described in **Article VII, section 6(a)** of the State Constitution.

##### **12D-7.013 Homestead Exemptions - Abandonment.**

(5) Property used as a residence and also used by the owner as a place of business does not lose its homestead character.

(a) The head of the family occupying the second story of a **building as his home** and the first story of the building as his business house is entitled to **claim homestead exemption on the building**, except that portion not used by him either as his business house or as his home. Any portion of the property not used as his business house may not be exempted as a homestead. In other words, **if any portion of the first floor or second floor of the building is rented to another party and used by the other party for other purposes, it would not be within the exemption provided for under Article VII** of the State Constitution. (*Smith v. Guckenheimer*, 27 So. 900 (Fla.1900).

(b) **The two uses should be separated** with that used as a **residence and business house being granted the exemption and the remainder being taxed.**

#### **F.S. § 193.1554 Assessment of nonhomestead residential property.—**

(1) As used in this section, the term "**nonhomestead residential property**" means **residential real property** that contains **nine or fewer dwelling units**, including vacant property zoned and platted for residential use, and that does not receive the exemption under s. 196.031.

The Florida Administrative Code 12D-7.013(5)(a)(b) (*Homestead Exemptions*) and Florida Statutes § 193.1554 (*Assessment of nonhomestead residential property*) helps us to understand that homestead exemption is only for the "head of the family," "the Owner" [*taxpayer*], that has property (*Land, Real Property and/or personal property*) that is used for profit making commercial purposes, or used by the taxpayer/owner as a place of business and in making a "permanent residents" upon such property is entitled to claim homestead exemption upon the area of property set aside for the permanent residents and that the two uses "*Permanent residents*" and "*Business*" should be separated, with that

used as a “*residence and business house*” being granted the exemption and the remainder (*the property used for profit oriented commercial purposes*) “*being taxed.*” Florida State Statute § 196.012 (17)(18) (Exemptions chapter) defines “**Permanent residence**” to mean the “*place where a person as defined by F.S. § 198.01(3) and FAC 12D-2.001(10) has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning.*” Florida State Statute § 196.012 (13) (Exemptions chapter) defines **Real estate used and owned as a homestead** to mean “*Real Property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion thereof used for commercial purposes*” and goes on to define “*Property rented for more than 6 months is presumed to be used for commercial purposes.*” Florida Statutes § 193.1554 clearly defines “**nonhomestead residential property**” to mean “*residential real property that contains nine or fewer dwelling units, including vacant property zoned and platted for residential use, and that does not receive the exemption under s. 196.031,*” truly a business use of commercial property engaged in commerce. The Black’s Law Dictionary 6<sup>th</sup> Edition defines “*Commercial Use*” as the furtherance of a **profit-making enterprise** and the term “*Commercial*” as **trade and traffic or commerce in general** occupied with **business and commerce**.

The homestead exemptions stated in the state constitution, state statutes and the Florida Administrative Code would apply only to an individual “**Person**” as defined by F.S. § 198.01(3) and FAC 12D-2.001(10) as a **company, corporation** or other **legal entity** who are taxpayers as defined by F.S. § 192.001(13) § 220.03(z) and in possession of, or with title to real property (*real estate*) as defined by F.S. §192.001(12),(13), which is **used strictly for profit oriented commercial purposes** such as a Farm, Ranch, Lumber Mill, Car lot, Automotive repair lot, Grocery store, Restaurant, Hotel, Apartment complex, Office building, etc, with a part of such real property being used as the **permanent residences of the taxpayer/owner**, but less any portion thereof **used for commercial purposes** would or could apply for a Homestead exemption to receive (for lack of a better word) a discount, and in order to receive such an exemption the title of such real property must be recorded in the official records of the county in which the real property is located in accordance with the definitions stated in F.S. §192.001(12),(13) (“Real property” “Real estate used and owned as a Homestead”).

**F.S. § 192.001 Definitions.**--All definitions set out in chapters 1 and 200 that are applicable to this chapter are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(12) “**Real property**” means land, buildings, fixtures, and all other improvements to land. The terms “**land**,” “**real estate**,” “**realty**,” and “**real property**” may be used interchangeably.

*In general, a state may tax everything which exists by its authority or is introduced by its permission within its boundaries. While restricted to taxation of property having a taxable situs within the territorial jurisdiction of the state, the legislature may extend taxation to all persons and to all property real or personal within its jurisdiction. Frick*

*v Pennsylvania*, 268 US 473, 69 L Ed 1058, 45 S Ct 603, 42 ALR 316; *Thompson v Kentucky*, 209 US 340, 52 L Ed 822, 28 S Ct 533; *M'Culloch v Maryland*, 4 Wheat (US) 316, 4 L Ed 579. **Since a state can levy a property tax only upon "property" having a situs in the state, provisions requiring all property within the state to be subject to taxation will not be construed to include property which has no situs for taxation within the state. Taxing statutes and statutes conferring authority to impose taxes are to be strictly construed.** *Commonwealth v Union P. R. Co.* 214 Ky 339, 283 SW 119, 49 ALR 1091; *Department of Revenue v Brookwood Associates, Ltd.* (Fla App D1) 324 So 2d 184. **When, however, the statutes enumerate the classes of property which shall be subject to taxation, property cannot be taxed unless it falls within one of such classes.** *Newport Illuminating Co. v Tax Assessors*, 19 RI 632, 36 A 426.

“Situs” *Lat.* (Black’s Law Dictionary 6<sup>th</sup> Edition).

Location or place of crime or **business**, or the right or power to tax it. Situs of property, for tax purposes, is **determined by whether the taxing state has sufficient contact with personal property sought to be taxed** to justify in fairness the particular tax. *Town of Cady vs. Alexander Const. Co.*, 12 Wis2d 236, 107 N.W.2d 267,270.

“Business situs” (Black’s Law Dictionary 6<sup>th</sup> Edition).

A situs acquired for tax purposes by **one who has carried on business in the state more or less permanent in its nature. A situs arising when notes, mortgages, tax sale certificates and like are brought into the state for something more than a temporary purpose, and are devoted to some business use there and thus become incorporated with the property of the state for revenue purpose.**

A situs arising where possession and control of property right has been localized in some independent **business** or investment away from owner’s domicile so that its substantial use and value primarily attach to and become an asset of the outside business. *State vs. Atlantic Oil Producing Co.*, 174 Okl. 61, 49 P.2d 534, 538.

“Tax” situs”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

A state or jurisdiction which has a substantial relationship to assets subject to taxation.

## TAXATION: GENERAL PROVISIONS

### F.S. § 192.032 Situs of property for assessment purposes.—

All property shall be assessed according to its **situs** as follows:

(1) Real property, in that county in which it is located and in that taxing jurisdiction in which it may be located.

### Florida Statutes

**F.S. § 1.01 Definitions.**—In construing these statutes and each and every word, phrase, or part hereof, where the context will permit:

- (1) The singular includes the plural and vice versa.
- (2) Gender-specific language includes the other gender and neuter.
- (3) The word "**person**" includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

“Individual”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

As a noun, this term denotes a single person as distinguished from a group or class, and also, very commonly, a private or natural person as distinguished from a partnership, corporation, or association; **but**

**it is said that this restrictive signification is not necessarily inherent in the word, and that it may, in proper case, include artificial persons.**

As an adjective, “individual” means pertaining or belonging to, or characteristic of, one single **person**, either in opposition to a firm, association, or corporation, or considered in his relation thereto.

“Person”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

In general usage, a human being (i.e. natural person), **though by statute term may include labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.**

*“In common usage, the term ‘person’ does not include the sovereign, and statutes employing the word are ordinarily construed to exclude it.” **Wilson v. Omaha Indian Tribe**, 442 US 653, 667 (1979).*

## **FLORIDA STATUTES CHAPTER 198; ESTATE TAXES**

**F.S. § 198.01 Definitions.**--When used in this chapter the term, phrase or word:

(3) **“Person”** means persons, **corporations, associations, joint stock companies**, and **business trusts**.

**NOTE:** The Florida Administrative Code 12D-2.001(10) (Definitions), defines “Person” as *any “company.” Unless otherwise specifically provided, the word “company” may be used interchangeably with the word “person.”* Florida Statutes § 198.01(3) (Estate Taxes chapter) defines “Person” to mean persons, **corporations, associations, joint stock companies**, and **business trusts** keeping within the scope of the definition of taxpayer as defined in Florida statutes § 192.001-(13) and § 220.03(z) as a corporation or other legal entity. The Black’s Law Dictionary 6<sup>th</sup> Edition defines “Person” *“though by statute term may include labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.”* F.S. §192.001-12 defines “Real Property” *“as Land, Buildings, Fixtures and all other improvements to land.”* §192.001-12 also informs us that the *“TERMS “land,” “real estate,” “realty” and “real property” (which are commercial terms) may be used interchangeably and shall apply in the imposition of ad valorem taxes.”* The Black’s Law Dictionary 6<sup>th</sup> Edition defines “Real Property” as *“Land, that for the purpose of sale, emblements, industrial growing crops and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale, shall be treated as goods and be governed by the regulating the sales of goods.”* The Florida Administrative Code 12D-2.001(1) Definitions, defines *“Operating property” “shall be classified in one of the following categories “Real Property,” “Tangible Property” or “Intangible Personal Property”* defining “real property” as truly a commercial term. The Florida Administrative Code 12D-1.002(7) General Rules- Definitions, defines “Homestead” and “Homestead Property” – *“Means that property described in Article VII, section 6(a) of the State Constitution.”* Article VII, section 6(a) speaks of only Real Estate which may be used interchangeably with *“realty,” “real property” and “land”* but **less any portion thereof used for commercial purposes** also keeping within the scope of the definitions provided in F.S. §192.001(12) and (13). **F.S. § 192.032** states

CLEARLY that the **state can only levy a property tax** (*ad valorem taxes*) **upon** “property” having a **situs** located in the taxing jurisdiction of the state. Black’s Law Dictionary 6<sup>th</sup> Edition defines “Situs” as a “*location or place of crime or “business”*” and “Business situs” is defined as “*one who has carried on business in the state more or less permanent in its nature.*” “*In general, a state may tax everything which exists by its authority or is introduced by its permission within its boundaries.*” *Frick v Pennsylvania*, 268 US 473, 69 L Ed 1058, 45 S Ct 603, 42 ALR 316.

“Real Property” (Black’s Law Dictionary 6<sup>th</sup> Edition).

Land, that which is incidental or appurtenant to land; that which is immovable by law: except that **for the purpose of sale, emblements, industrial growing crops and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale, shall be treated as goods and be governed by the regulating the sales of goods.** *Calif. Civil Code*, § 658.

#### Florida Administrative Code 12D-2.001 Definitions.

**The following definitions shall apply to property assessed by the Department:**

(1) “**Operating Property**” – All property owned by or leased to railroad and railroad terminal companies and directly related to the operation of railroads. **Operating property” shall be classified in one of the following categories.**

(a) **Real Property.**

(b) Tangible Property.

(c) Intangible Personal Property.

(10) “**Person**” – As defined in Section 1.01, Florida Statutes, and including any “company”. **Unless otherwise specifically provided, the word “company” may be used interchangeably with the word “person.”**

**NOTICE:** The Florida Administrative Code 12D-7.013-5(b) keeping in context with 12D-7.002 (*Exemption of Household Goods and Personal Effects*) makes it clear that the taxpayer’s “Permanent Residents” (*Shelter, Dwelling House*) the place that the taxpayer Eats, Sleeps, take Showers, watches TV, pursues Hobbies, Interests and provides shelter for the Family shall be exempt from the “tax” or as stated in F.S. §196.192(1) “**shall be totally exempt from ad valorem taxation**” or as stated in The Florida State Constitution Article VII Sec 6 (a) “**permanent residence of the owner shall be exempt from taxation thereon**”. 12D-7.013-5(b) states that “**The two uses should be separated with that used as a residence and business house being granted the exemption and the remainder being taxed**” stating that only the Business part of the property that is not being used for the residence or the business house may be appraised for ad valorem taxation which by its own definition is a commercial Tax.

“Property” that which is peculiar or proper to any person; **that which belongs exclusively to one.** *In the strict legal sense, an aggregate of rights which are guaranteed and protected by government.*” *Fulton Light, Heat & Power Co. v. State*, 65 Misc.Rep. 263, 121 N.Y.S. 536. “Property is the right to dominion over the use and disposition of an interest. *Protected by the equal protection clause, which is grounded in stare decisis.*” See *Cohens vs. Virginia*, 6 Wheaton 264, 399.

**F.S. § 212.031 Tax on rental or license fee for use of real property.--**

(1)(a) **It is declared to be the legislative intent** that **every person is exercising a taxable privilege who engages in the business** of renting, leasing, letting, or granting a license for the use of any **real property unless such property is:**

(2) **Used exclusively as dwelling units.**

**Florida Administrative Code  
12D-7.001 Applications for Exemptions.**

(4) Each new applicant for an exemption under Sections 196.031, 196.081, 196.091, 196.101, or 196.202, Florida Statutes, **must provide his or her social security number and the social security number of his or her spouse**, if any, in the applicable spaces provided on the application form, Form DR-501 (incorporated by reference in Rule 12D-16.002, F.A.C.). **Failure to provide such numbers will render the application incomplete.** If an applicant omits the required social security numbers and files an otherwise complete application, the property appraiser shall contact that applicant and afford the applicant the opportunity to file a complete application on or before April 1. Failure to file a completed application on or before April 1 shall constitute a waiver of the exemption for that tax year, unless the applicant can demonstrate that failure to timely file a completed application was the result of a postal error or, upon filing a timely petition to the value adjustment board, that the failure was due to extenuating circumstances as provided in Section 196.011, Florida Statutes.

(5) In those counties which permit the automatic renewal of homestead exemption, the property appraiser may request a refiling of the application **in order to obtain the social security number of the applicant and the social security number of the applicant's spouse.**

So to put it all in a nut shell, “Homestead Exemption” which is a commercial term, is only applicable to a business owner, a taxpayer that makes his home upon the property his business is located on. This is why you need a Social Security number to be eligible for the exemption as stated in The Florida Administrative code 12D-7.001(4) where it states “*Failure to provide such numbers will render the application incomplete.*” If Homestead Exemption was only to show Homestead right to the property and protection from creditors why the need for a tax ID (TIN) number unless there is a commercial or economic use? F.S. § 212.031 (1) (a) states “*It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property.*” here the legislative intent is made clear that a person who engages in the business (*a business requiring a state license*) of renting, leasing, letting, etc or licensing the use of **real property** is exercising a taxable privilege, known to most as an ad valorem tax which is defined as by the Blacks Law Dictionary 6<sup>th</sup> Edition as “*a tax levied on property or an article of commerce.*” Florida Statutes § 192.001(1) (Definitions) makes it clear that the term “**property tax**” *may be used interchangeably with the term “ad valorem tax.”*

“**Exempt**”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

To release, discharge, waive, relieve from liability. To relieve, excuse, **or set free from a duty or service imposed upon the general class to which the individual exempted belongs**; as to exempt from military service. To relieve certain classes of property from liability to sale on execution, **or from taxation**, or from bankruptcy or attachment.

“**Ad valorem tax**”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

According to value. A **tax levied on property or an article of commerce** in proportion to its value, as determined by assessment or appraisal. *Callaway v. City of Overland Park*, 211 Kan. 646, 508 P.2d 902, 907.

**F.S. § 192.001 Definitions.--** In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(1) "**Ad valorem tax**" means a tax based upon the assessed value of property. The term "**property tax**" may be used interchangeably with the term "**ad valorem tax**."

**F.S. § 196.192 Exemptions from ad valorem taxation.--**Subject to the provisions of this chapter:

(1) All property owned by an exempt entity and used exclusively for exempt purposes **shall be totally exempt from ad valorem taxation.**

(2) All property owned by an exempt entity and used predominantly for exempt purposes **shall be exempted from ad valorem taxation** to the extent of the ratio that such predominant use bears to the nonexempt use.

(3) All tangible personal property loaned or leased by a natural person, by a trust holding property for a natural person, or by an exempt entity to an exempt entity for public display or exhibition on a recurrent schedule is exempt from ad valorem taxation if the property is loaned or leased for no consideration or for nominal consideration.

**For purposes of this section, each use to which the property is being put must be considered in granting an exemption from ad valorem taxation, including any economic use in addition to any physical use. For purposes of this section, property owned by a limited liability company, the sole member of which is an exempt entity, shall be treated as if the property were owned directly by the exempt entity.** This section does not apply in determining the exemption for property owned by governmental units pursuant to s. 196.199.

*The principle is bottomed on the theory that the subject of **ad valorem taxation** is property and that of excise taxation is a right or privilege, or of a fee or tax exacted for the privilege of incorporating or doing business as a corporation. Harder's Fire Proof Storage & Van Co. v Chicago, 235 Ill 58, 85 NE 245; South Covington & C. Street R. Co. v Bellevue, 105 Ky 283, 49 SW 23. Thus, it is well settled that a state may collect an **ad valorem tax** on property used in a calling and at the same time impose a license tax on the pursuit of that calling. Ohio Tax Cases, 232 US 576, 58 L Ed 737, 34 S Ct 372; See 51 Am Jur 2d, Licenses and Permits § 21.*

The Florida Administrative Code, state statutes and the definitions above associates Homestead Exemption and Commercial use as a procedure used in Determining profit or nonprofit status of real property (*real estate, land, realty*), profit being nonexempt from an ad valorem tax and nonprofit being exempt from all ad valorem taxes. The U.S. Supreme Court clearly defines that **ad valorem taxation** is a tax on property used in the calling or business and an **excise tax** is a tax on the right or privilege to conduct the business within the state (*Ohio Tax Cases*, 232 US 576, 58 L Ed 737, 34 S Ct 372). The wording used in

F.S. §196.192(1) Exemptions from ad valorem taxation states “All property owned by an exempt entity and used exclusively for exempt purposes shall be totally exempt from ad valorem taxation” and to help us better understand F.S. § 196.192(2) also states “All property owned by an exempt entity and used predominantly for exempt purposes shall be exempted from ad valorem taxation to the extent of the ratio that such predominant use bears to the nonexempt use,” and then F.S. §196.192(3) states that the natural person or the exempt entity “is exempt from ad valorem taxation if the property is loaned or leased for no consideration or for nominal consideration” (Take note the words Loaned or leased as apposed to rented or hire out), it then states “For purposes of this section, each use to which the property is being put must be considered in granting an exemption from ad valorem taxation, including **any economic use** in addition to any physical use. And then goes on to state; “For purposes of this section, property owned by a **limited liability company**, the sole member of which is an exempt entity, shall be treated as if the property were owned directly by the exempt entity.”

*Although an excise or privilege tax, like a property tax, is passed to raise revenue, it is to be distinguished from property taxation in that it is imposed **upon the right to exercise a privilege**, and its payment is made a condition to the exercise of the privilege involved. An excise tax partakes of the nature of a license tax, and is laid on a license to pursue certain **occupations, corporate privileges, sales, or consumption of commodities.** Dorsett v Overstreet, 154 Fla 566, 18 So 2d 759, 155 ALR 228; Ingels v Riley, 5 Cal 2d 154, 53 P2d 939, 103 ALR 1.*

F.S. § 196.192(3) ties the natural person who would be the living breathing man/woman acting as the CEO, business owner or stock holder, etc. of the **corporation, association, limited liability company, joint stock company, business trust or other legal entity** together as exempted from all ad valorem taxation of all property personal or real owned by such exempt entity a natural person if the natural person, a exempt entity uses such property predominantly and exclusively for exempt purposes as in religious, scientific, municipal, educational, literary, charitable purposes, or even a shelter (*domestic household*). Remember the legislative intent stated in F.S. § 212.031 (1) (a) “*It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any **real property.***” The Florida state statute § 196.012 defines “Exclusive use of property” as “use of property solely for exempt purposes.” “*Such purposes may include more than one class of exempt use.*” The Florida state statute §192.001(1) informs us “Ad valorem tax” “*means a tax based upon the assessed value of property. The term “property tax” may be used interchangeably with the term “ad valorem tax.”* The Black’s Law Dictionary 6<sup>th</sup> Edition defines “Ad valorem tax” as “*A tax levied on property or an article of commerce in proportion to its value.*” The Black’s Law Dictionary 6<sup>th</sup> Edition defines “Commercial” and “Commercial use” as “*connected with trade and traffic or commerce in general; is occupied with business and commerce;” “*Generic term for most all aspects of buying and selling;*” “a profit-making enterprise.” It would appear from the*

statutes and definitions shown here that ad valorem taxation (*Property Tax*) is truly a commercial tax.

Now if the natural person/taxpayer's home/permanent residences is exempt from all taxation thereon in accordance with the Florida State Constitution Article VII Sec 6 (a), then how could the **nontax-payer/owner** of the family domestic household (*Household Goods and Shelter for noncommercial use, home*) be confused with business and commerce (*profit making commercial oriented economic use*) and become eligible for a ad valorem tax (*Property Tax*) **when the state statutes, government codes and state constitution exempts the "permanent residences" (Shelter, Dwelling House) "property used solely for exempt purposes" of the taxpayer from all taxation?**

### **United States Constitution Amendment XIII (13)**

**"Neither slavery nor involuntary servitude shall exist** within the United States, or any place subject to their jurisdiction."

The thirteen amendment of the United States Constitution forbids involuntary servitude. Therefore government cannot tax people without their consent and no man can be force into taxation who had never agreed to pay it. The U.S. Supreme court has ruled on many occasions that all taxation is voluntary which means there must be an agreement such as a **charter, contract or license to conduct business as a corporation within the state** between the bona fide property owner (*taxpayer*) **who is exercising a taxable privilege and engaged in a profit making venture of commerce** and the county and/or state.

*Thus, it is well settled that a state may collect an **ad valorem tax** on property used in a calling and at the same time impose a license tax on the pursuit of that calling. The principle that the imposition of both an excise tax on a **privilege, activity, occupation, or calling** and **an ad valorem tax on property used in the exercise, conduct, or performance of such calling, privilege,** or activity is not invalid as double taxation is generally recognized. *Ohio Tax Cases*, 232 US 576, 58 L Ed 737, 34 S Ct 372.*

*A state may not tax persons, property, or interests **which are not within its territorial jurisdiction** and subject only to applicable and controlling federal law, **state taxation is authorized, limited, and regulated by the state constitution and by statutes enacted thereunder.** *Gray v Winthrop*, 115 Fla 721, 156 So 270, 94 ALR 804 (1934); *Suttles v Northwestern Mut. L. Ins. Co.* 193 Ga 495, 21 SE2d 695, 143 ALR 343.*

## **HOMESTEAD EXEMPTION**

“**Homestead**”. (Bouvier 1856 Edition).

The place of the house or home place. **Homestead farm** does not necessarily include all the parcels of land owned by the grantor, though lying and occupied together. This depends upon the intention of the parties when the term is mentioned in a deed, and is to be gathered from the context. 7 N. H. Rep. 241; 15 John. R. 471.

“**Homestead**”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

**The dwelling house and the adjoining land where the head of the family dwells; the home farm.** The fixed residence of the family, with the land, usual and customary appurtenances, and buildings surrounding the main house.

“**Homestead Right**”. (Black’s Law Dictionary 6<sup>th</sup> Edition).

The personal right to the beneficial, **peaceful and uninterrupted use of the home property free from claims of creditors.**

### **F.S. § 196.195 Determining profit or nonprofit status of applicant.--**

(1) Applicants requesting exemption shall supply such fiscal and other records showing in reasonable **detail the financial condition, record of operation, and exempt and nonexempt uses of the property**, where appropriate, for the immediately preceding fiscal year as are requested by the property appraiser or the value adjustment board.

(2) In determining whether an applicant for a religious, literary, scientific, or charitable exemption under this chapter is a **nonprofit or profitmaking venture or whether the property is used for a profitmaking purpose**, the following criteria shall be applied.

The county property appraiser requires that a property owner/*taxpayer* wishing to claim a homestead must apply for a homestead exemption by submitting an application Form DR-501 with the Property Appraiser of the county in which the property is located. The DR-501 (*Original Application for Ad Valorem Tax Exemption*), which is the the homestead exemption form require under the Florida Administrative Code 12D-7.001(4) and in accordance with F.S. §196.031. By submitting such application Form DR-501 you are required to provide a tax ID number (*Tax Identification Number [TIN] or Social Security number [SSN]*) and reasonable **details of the financial condition, record of operation, and the profitmaking purpose of the property** as stated in Florida state statutes § 196.195 (1)(2) (*Determining profit or nonprofit status of applicant*). Applying for a homestead exemption on the permanent residence (*Household Goods and Shelter*) and recording title or deed to such property in the county records in which the property is located, could it be that you voluntarily become a tax-payer and thought this process you requested that such recorded property be entered on to the county tax assessment roll?

The answer is ***NO***; **IF THE TAX DOES NOT TOUCH YOU THEN YOU CANNOT VOLUNTEER FOR IT!** Just because a man and/or woman buys a piece of land with a structure upon it to use as a shelter does not, and cannot, make him or her a corporation or other legal entity taxpayer as defined by F.S. § 192.001(10) § 220.03(z) or a person as defined in F.S. § 198.01(3) who is exercising a taxable privilege and engaged in business within the state situs pursuant to the legislative intent declared in F.S. § 212.031 (1)(a).

It is a FACT from the statutes and definitions shown here within; and the United States Supreme Court that an ad valorem tax (*Property Tax*) is **truly a commercial business tax involving economic and profit making use of real and/or personal property in the exercise of, conduct, or performance of an act in commerce and levied for operating purposes upon the taxpayer** for the **privilege to facilitate business within the state**. In order for a governmental entity to lay an ad valorem property tax, it first **must be certain** that the property being taxed **is exercising a taxable privilege and being used for the furtherance of a profit-making enterprise in connection with trade and traffic** and/or **occupied with business** and/or **commerce**.

*Since a state can levy a property tax only upon "property" having a situs in the state, provisions requiring all property within the state to be subject to taxation will not be construed to include property which has no situs for taxation within the state. Taxing statutes and statutes conferring authority to impose taxes are to be strictly construed. Commonwealth v Union P. R. Co. 214 Ky 339, 283 SW 119, 49 ALR 1091; Department of Revenue v Brookwood Associates, Ltd. (Fla App D1) 324 So 2d 184. When, however, the statutes enumerate the classes of property which shall be subject to taxation, property cannot be taxed unless it falls within one of such classes. Newport Illuminating Co. v Tax Assessors, 19 RI 632, 36 A 426.*

"Ownership". (Black's Law Dictionary 5th Edition).

The complete dominion, title, or proprietary right in a thing or claim. The entirety of the powers of use and disposal by law. The exclusive right of possession, enjoyment, and disposal. **Ownership of property is absolute or qualified. The ownership of property is absolute when a single person has absolute dominion over the property.** The ownership is qualified when use of the property is restricted."

"Perpetuity" (Black's Law Dictionary 5th Edition p.1027).

Continuing forever. Legally, pertaining to real property, any condition extending the inalienability... **In terms of an allodial title, it is to have the property of inalienability forever. Nothing more need be done to establish the ownership of the sovereigns to their land,** although confirmations were usually required to avoid possible future title confrontations.

### **F.S. § 196.011 Annual application required for exemption.--**

(3) **It shall not be necessary to make annual application for exemption** on houses of public worship, the lots on which they are located, personal property located therein or thereon, parsonages, burial grounds and tombs owned by houses of public worship, individually owned burial rights not held for speculation, **or other such property not rented or hired out** for other than religious or educational purposes at any time; **household goods and personal effects of permanent residents of this state**; and property of the state or any county, any municipality, any school district, or community college district thereof.

The state statutes, the state tax code, and the state constitution makes it perfectly clear that title to household goods and personal effects of the taxpayer which are defined as "Creature comforts" "*things which give bodily comfort, such as food, clothing and*

**Shelter**” are exempt from taxation by the state and any entity under its authority which means the counties and or cities. Florida Statutes §196.011(3) states that **“it shall not be necessary to make annual application for exemption on household goods and personal effects of permanent residents of this state or other such property not rented or hired out”** and this tells us that noncommercial property “not rented or hired out” and used predominantly for exempt purposes should not even be on the tax assessment roll, wherefore it would not be necessary to make an annual application for an exemption.

The taxpayer’s permanent resident (*Family Home, Shelter, Dwelling House*) is exempted from all taxation thereon as stated in the Florida State Constitution Article VII Sec 6 (a) **“Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon.”** Florida State Statute F.S. § 196.031(Exemptions chapter) tells us that **“Every person who has the legal title or beneficial title in equity to real property in this state and who resides thereon and in good faith makes the same his or her permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation.”** The Florida State Constitution Article VII Sec 3 (b) states that **those household goods and personal effects to every head of family residing in this state are exempt from taxation**. The Florida State Constitution Article VII. Sec 5 states the fact that **“No tax upon estates or inheritances or upon the income of residents or citizens of the state shall be levied by the state, or under its authority”** this means the counties and cities too. Remember the legislative intent as stated in Florida State Statute §195.027 (Rules and regulations) is to be **“in compliance with the requirements of the general law and the constitution.”** ***Taxing statutes and statutes conferring authority to impose taxes are to be strictly construed. Department of Revenue v Brookwood Associates, Ltd.*** (Fla App D1) 324 So 2d 184.

**“Private Property”**. (Black’s Law Dictionary 6<sup>th</sup> Edition pg.1217).

***As protected from being taken for public uses, is such property as belongs absolutely to an individual, and of which he has the exclusive right of disposition.*** Property of a specific, fixed and tangible nature, capable of being in possession and transmitted to another, such as **houses, lands**, and chattels. ***Scranton v. Wheeler***, 179 U.S. 141, 21 S.Ct. 48, 45 L.Ed. 126.

***“Property is the right to dominion over the use and disposition of an interest. Protected by the equal protection clause, which is grounded in stare decisis.”*** See ***Cohens vs. Virginia***, 6 Wheaton 264, 399.

**“Personal Property”**. (Black’s Law Dictionary 6<sup>th</sup> Edition pg.1217).

“Personal property **can refer to property which is not used in a taxpayer’s trade or business or held for the production or collection of income. When used in this sense, personal property could include both realty (e.g. a personal residence)** and personality (e.g. **personal effects** such as clothing and furniture). A right or interest in things personal, or right or interest less than a freehold in realty, or any right or interest which one has in things movable.

The use of all time, effort, material, employees, and property of **organizations, franchises, corporations** and other **legal entities** which are solely devoted **to non profit humanitarian purposes are completely tax exempt** under Internal Revenue Code

section 501. **All excise tax liability** in the United States of America **is constitutionally required to be assessed according the "rule of uniformity"** so as to be equal throughout any particular class of uses or activity pursuant to U.S. constitution Article 1 **section 8. clause 1.** Assuming, for discussion purposes, that current tax laws are properly intended to include the private man or woman's domestic nonprofit households **and are not allowed the same exemption or exclusion for humanitarian and non profit use of resources as a corporation is allowed then a gigantic constitutional violation of the rule of uniformity of excises is created.**

*Notwithstanding a constitutional requirement that the legislature shall provide for the equal and uniform assessment and taxation of property and prescribe regulations for the taxation of all property both real and personal, with certain exceptions, a tax cannot be laid unless the general assembly selects the particular species of property to bear the burden of taxation.* *Carmichael v Southern Coal & Coke Co.* 301 US 495, 81 L Ed 1245, 57 S Ct 868, 109 ALR 1327; *Bell's Gap R. Co. v Pennsylvania*, 134 US 232, 33 L Ed 892, 10 S Ct 533; *Long v St. John*, 126 Fla 1, 170 So 317, 109 ALR 809.

*The overall conclusion in which we are brought to is, that the "Person" and/or "Taxpayer" taxed in the Florida revenue code is a government employee or an agent, member, or stockholder in an enfranchised limited liability firm or corporation who is engaged in profit making commercial affairs (as in exercising a taxable privilege). The "residence" which is taxed under the Florida statues are business locations providing accommodations (*Apartment complexes, Hotels, Office buildings, etc.*) and consumption of the commodity at the retail level, (Grocery stores, Restaurants, etc.) and not tracts of land with structures devoted to mere shelter of its owner from the elements ("dwelling home," "Households" etc.). In fact, such use is not only not taxable, it is also not tax deductible as a business expense would be.*

Common sense tells us that, "**households" are not businesses**, and the funds devoted to the upkeep and support of the ordinary household (*permanent residence of the owner; private dwelling, and/or the shelter of the taxpayer or nontax payer*) **is not taxable in any State** nor is it a business expense which is tax deductible. Reading though the Florida State Statutes, The Florida Administrative Code, The Internal Revenue Code and the Florida State Constitution you will not be able to find any references to taxation (*a property tax, ad valorem tax*) of the family owned home (*Shelter used predominantly for exempt purposes and noncommercial use*) except to state the obvious exemption of the taxpayer's family owned home as stated in The Florida State Constitution Article VII Sec 6 (a) "permanent residence of the owner shall be exempt from taxation thereon." Nowhere in the state statutes or the state constitution of Florida does it provide a procedure to assess and levy a commercial ad valorem property tax of any kind upon

property used by its owner as a home or even a private business. **There must be an economic use and a profit made from the use of property to come within the state Situs of taxation before an “ad valorem tax” (by legal definition) can be assessed and levy upon any type of property. There must be clear evidence of “a profit-making enterprise” or some “commercial use” of the property or the “articles of commerce” (by legal definition) used in connection with the occupation, privilege, or act which is taxed enabling a tax for the privilege of incorporating or doing business as a corporation within the state which is the essence of all taxation and the only lawful taxable activity granted by the state constitution to the state governmental entities.**

*The principle is bottomed on the theory that the subject of ad valorem taxation is property and that of excise taxation is a right or privilege, or of a fee or tax exacted for the privilege of incorporating or doing business as a corporation, it is well settled that a state may collect an ad valorem tax on property used in a calling and at the same time impose a license tax on the pursuit of that calling. Harder's Fire Proof Storage & Van Co. v Chicago*, 235 Ill 58, 85 NE 245; *South Covington & C. Street R. Co. v Bellevue*, 105 Ky 283, 49 SW 23; *State v F. H. Vahlsing, Inc.* 147 Me 417, 88 A2d 144.

The average working man or woman (*a non-corporation, non-legal entity or nontax payer*) that owns land supporting a structure used only as a shelter of its owner does not make a "profit" or "income" by legal or statutory definition from such use. Nor is he or she exercising a taxable privilege, occupation, or an act which is taxed in accordance with the state situs, nor does he or she live in a dwelling unit, family unit, or residential unit, or live upon real property or real estate, nor is he or she a "Person" or a "Taxpayer" as defined under the Florida state statutes, the Florida Administrative Code or the Florida Revenue Code. The average man or woman, that owns a home lives upon noncommercial private property, and merely hopes to be able to meet household necessities and provide "*Creature comforts*" for the family such as food, clothing and shelter as defined by the Florida Administrative Code 12D-7.002 and Florida State statute § 196.181 leaving he or she seeking only the humanitarian goals of survival. **Property ownership does not and cannot make you a taxpayer unless there is clear evidence of some taxable privilege, occupational use, consumption of commodities, independent business or some act connected with trade or commerce which is taxable under the state situs and a business license of some kind or a corporate charter to complete the loop.**

#### Florida Administrative Code

##### 12D-8.001 All Property to Be Assessed.

###### (1) General.

(a) The property appraiser shall make a determination of the value of all property (whether such property is taxable, wholly or partially exempt, or subject to classification reflecting a value less than its just value at its present highest and best use) located within the county according to its just or fair market

value on the first day of January of each year and enter the same upon the appropriate assessment roll under the heading "Just Value." If the parcel qualifies for a classified use assessment, the classified use value shall be shown under the heading "Classified Use Value."

**(b) The following are specifically excluded from the requirements of paragraph (a) above:**

1. Streets, roads, and highways. The appraiser is not required to, but may assess and include on the appropriate assessment roll streets, roads, and highways which have been dedicated to or otherwise acquired by a municipality, a county, or a state or federal agency.

a. The terms "streets", "roads", and "highways" include all public rights-of-way for either or both pedestrian or vehicular travel.

b. The phrase "*or otherwise acquired*" shall mean that title to the property is vested in the municipality, county, state, or federal agency and shall not include an easement or mere right of use.

2. Improvements or portions not substantially completed on January 1 shall have no value placed thereon.

3. Inventory is exempt.

4. Growing annual agricultural crops, nonbearing fruit trees, nursery stock.

**5. Household goods and personal effects of every person residing and making his or her permanent home in this state are exempt from taxation. Title to such household goods and personal effects may be held individually, by the entireties, jointly, or in common with others.** Storage in a warehouse, or other place of safekeeping, in and of itself, does not alter the status of such property. **Personal effects** is a category of personal property which includes such items as clothing, jewelry, tools, and hobby equipment. **No return of such property or claim for exemption need be filed by an eligible owner and no entries need be shown on the assessment roll.**

*Tax exemptions, being in the nature of special privileges or immunities, must be strictly construed in favor of the sovereign in order to confine them to the limitations of our Constitution. Courts view with disfavor tax exemption claims which will be disallowed unless it has been clearly made to appear they are for a purpose recognized by our Constitution and Statutes as being exempt from taxation. The Miami Battlecreek v. Lummus, 140 Fla. 718, 192 So. 211.*

As stated in the Florida Administrative Code 12D-8.001 All Property to Be Assessed

**(b) The following are specifically excluded from the requirements of paragraph (a) above:**

5. Household goods and personal effects of every person residing and making his or her permanent home in this state are **exempt from taxation. Title to such household goods and personal effects may be held individually, by the entireties, jointly, or in common with others. No return of such property or claim for exemption need be filed by an eligible owner and no entries need be shown on the assessment roll.** The

Florida Administrative Code 12D-7.002 defines "household goods" to be the "creature comforts" of the taxpayer/owner "**things which give bodily comfort, such as food, clothing and Shelter**" and states that **title to such household goods** and creature

comforts (**shelter**) of the owner shall be exempt from all taxation. Remember the legislative intent as stated in Florida State Statute §195.027 (Rules and regulations) is to be "**in compliance with the requirements of the general law and the constitution.**"

The Florida State Constitution Article VII Sec 3 (b). (Taxes; Exemptions) states in plain language "**There shall be exempt from taxation,** cumulatively, to every head of a family residing in this state, **household goods and personal effects** to the value fixed by general law."

Once again the above codes and statutes which must be interpreted within the scope of the definitions within the federal and state statutes and constitutional limitations of **duties, imposts** and **excises**, “**the supreme law of the land**” makes it perfectly clear that the property appraisers and the tax collectors of any county of any state have **NO Lawful authority** to procure an assessment and collect a property tax of any kind on any noncommercial unincorporated property that is occupied and used exclusively as a dwelling shelter of its owner and the land it sits upon (*as in Private Property*).

**The Florida State Constitution Article VII Sec 1 (a)**

**Taxation; appropriations; state expenses; state revenue limitation.--**

**No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property.** All other forms of taxation shall be preempted to the state except as provided by general law.

**The Florida State Constitution Article VII Sec 1 (e)**

**Taxation; appropriations; state expenses; state revenue limitation.--**

“.....For purposes of this subsection, “**state revenues**” **means taxes, fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government.....**”

There is no lawful authority granted by; and in accordance with, the Federal and/or State Constitutions that grants **authority** to any public (*servant*) official elected or appointed, to exert acts of ownership or control of any kind of property not owned by them or collect any **taxes** (*state revenues*) not **pursuant to the situs** of **duties, imposts, and excises**. The Florida State Constitution Article VII Sec 1 (a) states that “**No state ad valorem taxes shall be levied upon real estate or tangible personal property**” so how can the counties and for-profit municipal corporations purportedly levied an ad valorem tax upon noncommercial land or building structures **not used in connection with the occupation, privilege, or an act which is taxed** such as **fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government** and be acting within the scope of the Florida State Constitution Article VII Sec 1 (e)? For these public servants have sworn an Oath to abide by the clearly establish laws of the State of Florida as stated in the above codes, statutes and state constitution. Our property rights are inseparable from our Substantive Rights and our Substantive Rights are inseparable from our property rights. Both types of rights are protected in the procedures and due process of the Courts of Common Law in accordance with the Constitution of the united states of America.

***If the tax is in fact imposed on property, no matter what it may be called, it is a property tax, and courts will look through form to substance, and will prevent that from being done by indirection which could not be accomplished directly. Dawson v Kentucky***

*Distilleries & Warehouse Co.* 255 US 288, 65 L Ed 638, 41 S Ct 272; *Choctaw, O. & G. R. Co. v Harrison*, 235 US 292, 59 L Ed 234, 35 S Ct 27. *If a tax is in its nature an excise, it does not become a property tax because it is proportioned in amount to the value of the property used in connection with the occupation, privilege, or act which is taxed.* *Maine v Grand Trunk R. Co.* 142 US 217, 35 L Ed 994, 12 S Ct 121, 163.

**Florida State Constitution Article I. Sec 2. Basic Rights.** All natural persons are equal before the law and have inalienable rights, among which are the **right to enjoy and defend life and liberty**, to pursue **happiness**, to be rewarded for industry, and **to acquire, possess and protect property**; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race or religion.

The use of ones land and property as a shelter of its owner from the elements, held and used only in the serving of the **creature comforts** of the owner **for shelter and not used for a profit oriented commercial purpose; is not a privilege or an act of commerce which is or can be taxed.** And **if you are a TAXPAYER** by statutory definition **your home is clearly and expressly exempted from all taxation** though the state statues, government codes and the state constitution. Land ownership in American is a God given constitutionally protected right in perpetuity protected by all the state constitutions and the Bill of Rights. People, either a taxpayer or a non-taxpayer have to live somewhere and cannot be taxed for the mere privilege of existing. **The Florida State Constitution Article I. Sec 2. Basic Rights states that** “*All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property.*” **A Substantive Right cannot be taxed.**

*"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but, the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed."* *Redfield v Fisher*, 292 P 813, at 819 (1930).

*"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as guaranteed him by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution for the United*

*States of America. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure **except under a warrant of the law**. He owes nothing to the public so long as he does not trespass upon their rights." Hale vs. Henkel, 201 U.S. 43 at 47 (1905).*

*Wherefore it is a **FACT** **that neither** the state statutes, nor the state constitution of Florida provides a procedure to assess and levy within the **situs of the state** a **commercial** ad valorem property tax of any kind upon **noncommercial** property used strictly as a dwelling home (**shelter**) of its owner as a mater of **RIGHT**.*

*Therefore it is a **FACT** that the public servants of the State of Florida **thru a scheme of taxation with pure intent to defraud the people of the State of Florida, are collecting monies **WITHOUT lawful authority to do so**** and are truly in direct violation of the supreme law of the land and a clear usurpation of power not granted by THE LAWS OF THE UNITED STATES OF AMERICA, AND THE CONSTITUTIONS OF THE SEVERAL STATES OF THE AMERICAN UNION.*

***“Private property is owned and controlled by private individuals. There is no monetary or proprietary interest that a government at any level has in controlling property belonging to a private individual. The property owner decides with whom he/she wishes to negotiate, procure a contract, dispose of or improve property.”***  
*Jones v. Mayer Co., 392 U.S. 409 (1968).*

The American people, newly established sovereigns in this republic after the victory achieved during the Revolutionary War, became complete owners in their land, **beholden to no lord, or superior, or fees; sovereign freeholders in the land themselves**. These freeholders in the original thirteen states now held allodial the land they **possessed before the war only feudally**. This new and more powerful title protected the sovereigns from unwarranted intrusions or attempted takings of their land, and more importantly it secured in them a right to own land absolutely in perpetuity.

Anyone holding to the contrary is invited to evidence the law upon which they rely for their position.