

073-289—August 15, 1973

TAXATION

CALCULATION OF AD VALOREM MILLAGE; NOTIFICATION
OF AUTHORITIES*To: Clark Maxwell, Brevard County Tax Assessor, Titusville**Prepared by: Sydney H. McKenzie III, Assistant Attorney General*

QUESTIONS:

1. What is the proper method for determining the millage ceiling to be imposed on a taxing authority for fiscal 1973 under §200.065(1), F. S.?
2. Is the county assessor required to notify taxing authorities within the county of the requirements of §200.065(7), F. S.?

SUMMARY:

Under the requirement of §200.065(1), F. S. (§13, Ch. 73-172, Laws of Florida), an assessor is required to certify to each taxing authority a millage rate which, exclusive of new construction, improvements, and deletions, will provide the *same* ad valorem revenue as was *levied* during the prior year, "levied" meaning the actual imposition of the tax. In calculating such certified millage rate, the assessor is to use a figure which is 95 percent of the present taxable value appearing on the assessment roll, exclusive of properties appearing on that roll for the first time. The assessor is not required to notify the taxing authorities of the limitations of §200.065(7), F. S.

The answer to your first question is set out below. The second question is answered in the negative.

Section 200.065(1), F. S., created by §13, Ch. 73-172, Laws of Florida, reads in relevant portion:

(1) . . . Exclusive of such new construction, improvements, and deletions the assessor shall certify to each taxing authority a millage rate which will provide the same ad valorem revenue for each taxing authority as was levied during the prior year. For the purpose of calculating the certified millage, the assessor shall use 95 percent of the taxable value appearing on the roll, exclusive of properties appearing for the first time on the assessment roll.

Thus, it is the duty of the assessor to determine the millage rate by calculating a rate which, when applied to 95 percent of the *present* taxable value appearing on the rolls, exclusive of properties appearing for the first time, will provide the *same* ad valorem revenue as was *levied* during the prior year. The term "levy" has been interpreted by this office to mean the "actual imposition of the tax." See AGOs 069-26 and 071-387.

For example, if the taxable property within a taxing district had a 1972 assessed value of one million dollars and the millage rate levied was 10 mills, the 1972 ad valorem "revenue" would have been ten thousand dollars. Assuming for 1973 that the same district had an assessed taxable value, exclusive of new properties, of two million one hundred five thousand two hundred sixty-three dollars and sixteen cents, the assessor would first determine 95 percent of that figure, which is two million dollars (disregarding odd cents). He would then calculate the millage rate necessary to provide the same ad valorem revenue as levied in 1972, that is: ten thousand dollars. The millage rate in this hypothetical case would, of course, be 5 mills, which is the rate to be certified to the taxing authority.

As to your second question, §200.065(7), F. S. (§13, Ch. 73-172, *supra*), provides:

(7) Nothing contained in this section shall serve to extend or authorize any millage in excess of the maximum millage permitted by law nor prevent the reduction of millage.

I find nothing in the act which requires the assessor to notify taxing authorities of the requirements of this subsection. Further, the act does, in §200.065(5), F. S. (Ch. 73-172, *supra*), designate certain information about which the assessor "shall notify each taxing authority." This further indicates that no such requirement exists as to said §200.065(7).

This opinion is, of course, limited to an analysis of the statutory provisions and subject to such rules and regulations as may in the future be promulgated by the Florida Department of Revenue.

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ADULT RIGHTS LAW

AGE REQUIREMENT FOR SERVICE OF SUBPOENAS

To: Phillip A. Hubbart, Public Defender, Miami

Prepared by: Jan Dunn, Assistant Attorney General

QUESTION:

May persons eighteen to twenty years of age serve subpoenas?

SUMMARY:

Rule 1.410(c), RCP and Rule 8.090(f)(2), R.J.P., which require a person to be twenty-one years of age to be able to serve a subpoena, take precedence over any inconsistent statute. However, under the rules, a person eighteen to twenty years of age may serve process or subpoenas if authorized by law or if appointed by the court under Rule 1.070(b), RCP.

The Adult Rights Law, Ch. 73-21, Laws of Florida [§743.07, F. S.], gives to persons eighteen years of age or older all the rights, privileges, and obligations formerly possessed by persons twenty-one years of age or older. This might normally include the right or privilege to serve subpoenas or process. However, the requirement that a person be twenty-one before he is able to serve a subpoena is found, not in the statutes, but in the Florida Rules of Civil Procedure:

A subpoena may be served by any person authorized by law to serve process or by any other person who is not a party and who is not less than twenty-one years of age. [Rule 1.410(c), RCP.]

The Florida Temporary Rules of Juvenile Procedure, in Rule 8.090(f)(2), also provide:

Subpoenas may be served within the State by any person over twenty-one years of age who is not a party to the proceeding.

Under the "Process" rule, Rule 1.070(b), RCP:

Service of process may be made by any officer authorized by law to serve process but the court may appoint any competent person not interested in the action to serve such process.

The Florida Constitution, revised Art. V, §2, gives the Supreme Court the power to make rules of procedure for the court system. It is a general rule that in case