

When can I make a designation?

An Application for Primary Family Homestead Designation can be made anytime on or after April 1, 2005.

Can I change my mind?

An individual is permitted to designate one property only. However, you will be able to change the designation of one property for another by following the steps as set out above and returning the original Certificate.

If I fail to make a designation before my death, can my estate representative make a designation on my behalf?

Yes. Your estate representative may, at any time before he submits an Affidavit of Value, designate a property which you own as the Primary Family Homestead.

If at the time of death, your estate consists of more than one residential property and you resided at one of these properties, your estate representative can only designate the property in which you resided as the Primary Family Homestead.

If at the time of death, your estate consists of more than one residential property and you did not reside at one of these properties, your estate representative can only designate the property of least value as the Primary Family Homestead.

What happens if someone or his estate representative does not make a designation?

Any property which has not been designated will be subject to Stamp Duty at the rates prevailing at the time of the person's death.

What happens if the Tax Commissioner does not approve my application?

Within fourteen days after receiving a decision from the Tax Commissioner, an aggrieved person may appeal to the Supreme Court against that decision specifying the grounds of appeal.

Enquiries

This Guidance Note is an information circular only and is not a comprehensive statement of the legislative requirements. For official purposes, please refer to the Stamp Duties Act 1976 as amended by the Stamp Duties Amendment Act 2005.

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GOVERNMENT OF BERMUDA

Ministry of Finance

Office of the Tax Commissioner

**GUIDANCE NOTE
ON
DESIGNATION OF PRIMARY
FAMILY HOMESTEAD**

DESIGNATION OF PRIMARY FAMILY HOMESTEAD

The Stamp Duties Amendment Act 2005 exempts the Primary Family Homestead from Stamp Duty which would otherwise be payable upon the death of an owner. It provides that an owner can designate a property for this exemption. In particular, it will allow an owner of more than one property to choose which one should benefit from the exemption. The exemption is from the Stamp Duty chargeable on the estate of an owner upon death and it would be granted on the Affidavit of Value. It does not affect the existing exemption from Stamp Duty on assets passing to a surviving spouse.

Who is eligible to designate?

The Primary Family Homestead provisions apply to individuals who own or otherwise have a legal interest in residential property which is situated in Bermuda. Those individuals must have Bermudian status. Bermudian status has the meaning which is assigned to that expression under Section 4 of the Bermuda Immigration and Protection Act 1956.

What type of property is eligible to be designated as the Primary Family Homestead?

Only residential property can be designated as the Primary Family Homestead. Residential property means real property in

Bermuda which consists of a house or a condominium or other unit which is used wholly or mainly as a private dwelling. Residential property can consist of a single house or apartment. It could also be a multi-apartment property or where you own land on which a number of buildings have been erected, the undivided land can be designated.

Property which has been transferred in its entirety to a trust cannot be designated as a Primary Family Homestead.

How do I designate my property as the Primary Family Homestead?

An Application for Primary Family Homestead Designation must be completed by the individual owner and returned to the Office of the Tax Commissioner.

The detail required to be given on the Application is to ensure that the property is correctly identified. In addition to giving your name as the individual owner and your date of birth, the names of the other owners of the property are to be given together with details of your interest in the property. You will also be required to state when you acquired ownership of the property or the interest. To further assist identification of the property, all assessment numbers relating to the property are to be given.

The Application must be accompanied by a certified copy of a document acceptable

to the Tax Commissioner showing proof of ownership. Documentary proof of Bermudian status is also required.

Is there a fee charged for the Certificate?

No. There is no charge for processing the application or granting the Certificate.

What will I receive to show that I have designated a specific property as the Primary Family Homestead?

Provided that the Tax Commissioner approves the Application, a Primary Family Homestead Certificate will be issued to you. This Certificate, granted on the basis of information at the time of your application, certifies that a specific property has been designated as the Primary Family Homestead. The Government of Bermuda will not be held liable on any question of ownership, legal or otherwise, which might arise as a result of the designation. The Certificate must be collected by the applicant or his authorized agent upon notification from the Tax Commissioner. Please retain your Certificate so that it can be presented along with the Affidavit of Value when applying to the Supreme Court Registry for a grant.

What happens if there is more than one interest in the same property?

Each individual who has an interest may complete a separate Application for Primary Family Homestead Designation.