Definition of totally and permanently disabled

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Subject:
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TAXATION--EXEMPTIONS--DEFINITION OF PERSON "TOTALLY AND PERMANENTLY DISABLED"

To: David L. Reid, Palm Beach County Tax Assessor, West Palm Beach

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QUESTION:

What is the definition of "persons totally and permanently disabled," under the provisions of s. 196.202, F. S.?

SUMMARY:

A person may be considered totally and permanently disabled under the provisions of s. 196.202, F. S., when as a result of any impairment of mind or body it would be impossible for the average person to follow a substantially gainful occupation and that impairment is reasonably certain to continue throughout the life of the disabled person.

Section 196.202, F. S., reads as follows:

"Property of widows, blind persons, and persons totally and permanently disabled. -- Property to the value of five hundred dollars of every widow, blind person, or totally and permanently disabled person who is a bona fide resident of this state shall be exempt from taxation."

Section 196.012(10), F. S., provides that, as used in Ch. 196, F. S.:

"'Totally and permanently disabled persons' means those persons who are currently certified by two licensed physicians of the state who are professionally unrelated, or the veterans' administration to be totally and permanently disabled." [As amended by s. 14, Ch. 74-234].

You note that physicians in your county have indicated some confusion as to what criteria are properly the basis for a determination of total and permanent disability under these sections. Since the certification is to be either by two physicians or the Veterans' Administration, the criteria used by the latter agency would establish a consistent basis for the determination, although neither the statute nor current regulations would make such criteria mandatory or exclusive as a basis for a physician's certification.

The Veterans' Administration regulations (38 C.F.R. s. 4.15 [1973]) define total disability as follows:

". . . Total disability will be considered to exist when there is present any impairment of mind or body which is sufficient to render it *impossible for the average person to follow a substantially gainful occupation*; provided, that permanent total disability shall be taken to exist when the *impairment is reasonably certain to continue throughout the life of the disabled person*. . . ." (Emphasis supplied.)

It should be noted that the term totally and permanently disabled is legislatively defined in a more restrictive fashion as used in ss. 196.081, 196.091, and 196.101, F. S., which sections grant total exemption of homestead properties to certain veterans and others with specific kinds of disabilities, such as paraplegia and wheelchair confinement. Those sections expressly provide the criteria for determination of eligibility thereunder, and limit the use of such criteria to eligibility for exemption under the specific section in which they are contained. (*See* AGO's 072-42 and 072-194.)