Property Tax - Opinion - Life Estate

To: Ruth Oberhauser / Revenue Operations Division [IDR]

From: Ed Henderson / Policy Section [IDR]

Date: September 16, 2009

Subject: Life Estate (Elderly Credit)

STATUTES AND RULES:

Iowa Code section 425.17, subsections 4, 5, and 8.

FACTS:

The deed (title) to a homestead is in the name of one person but the deed provides that a different person has a life estate interest in the property. The two people are not spouses.

ISSUE:

The issue is who is entitled to claim the property tax credit for the elderly on the homestead. Is it the title holder, the life estate holder, or both?

DETERMINATION:

Iowa Code section 425.17(4) provides, in part, that a "Homestead" means the dwelling owned and used as a home by the claimant and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home. There have been numerous opinions of the Attorney General (only one of which is cited here) where it has been opined that the person holding a life estate interest in property, not the titleholder, is the beneficial owner of the property and entitled to any property tax credits associated with ownership of the property (O.A.G. April 29, 1937). The title holder is not eligible for the tax credit in this situation.

Section 425.17(8) provides, in part, that if a homestead is owned by two or more persons as joint tenants or tenants in common, and one or more persons are not members of the claimant's household, "property taxes due" is that part of the property taxes due on the homestead which equals the ownership percentage of the claimant and the claimant's household. In this situation, the homestead is not owned by joint tenants or tenants in common. Section 425.17(5) provides, in part, that "Household" means a claimant and the claimant's spouse. One person has legal title to the property and a different person has the beneficial ownership of the property and the two persons are not spouses. Therefore, the property taxes due do not have to be prorated.