

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Auditors, County Assessors, and County Treasurers
FROM: Timothy J. Rushenberg, Commissioner *TJR 5/28/09*
SUBJECT: Model Residence Deduction for the 2008 Assessment Date
DATE: May 28, 2009

Purpose

This memorandum supplements the January 20, 2009 memorandum entitled Deduction for Model Residences, and provides guidance to county auditors and assessors with respect to the model residence deduction for the 2008 assessment date. Effective May 13, 2009, PL 167 (HEA 1071-2009) added IC 6-1.1-12.6-2.1 to the Deduction for Model Residence chapter of the Indiana Code [IC 6-1.1-12.6]. The new section allows the qualified owner of a model residence a retroactive deduction in the amount of fifty percent (50%) of the assessed value of the model residence for the 2008 assessment date.

Application of the Section

IC 6-1.1-12.6-2.1 applies only to a model residence that was first assessed as a partially or fully completed structure on the March 1, 2008 assessment date, and which was still a model residence on January 1, 2009.

The 2008 Assessment Year Deduction

1. A deduction under IC 6-1.1-12.6-2.1 counts as a "deduction for an assessment date" for purposes of the limit of four assessment dates per model residence in IC 6-1.1-12.6-2.
2. To claim the deduction for the 2008 assessment date, a qualified property owner must file State Form 53947(5-09) with the county auditor not later than December 31, 2010.
3. The township assessor (if any) or the county assessor must verify the statements made on State Form 53947(5-09).
4. The county auditor must make the deductions and notify the county property tax assessment board of appeals (PTABOA) of all deductions approved under IC 6-1.1-12.6-2.1.
5. If the property taxes due for the 2008 assessment date have been paid, the person who paid the taxes is entitled to a refund of the amount that has been overpaid after applying the model residence deduction. A property owner is not required to apply for the refund. The county auditor must,

without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund due the property owner.

6. In the June or December settlement and apportionment of taxes, or both, immediately following a refund made for the model residence deduction for the 2008 assessment year, the county auditor must deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid, and must pay the amount deducted into the general fund of the county. In any event, the county auditor must make the deduction not later than the December settlement and apportionment.

Applicable Emergency Rule

Effective May 15, 2009, the Department of Local Government Finance (Department) adopted Emergency Rule LSA Document #09-360(E) with respect to the model residence deduction for the 2008 assessment date. Taxpayers, assessing officials, auditors and treasurers must comply with the requirements of the Emergency Rule in the administration of the model residence deduction for the 2008 assessment date. The Emergency Rule may be found on the Department's web site at:

http://www.in.gov/dlzf/files/Model_Residence_Emergency_Rule.pdf or as copied below.

Contact Information

Questions may be directed to Barry Wood, Assessment Director at (317) 232-3762 or bwood@dlgf.in.gov; or Cathy Wolter, Staff Attorney at (317) 233-4361 or cwolter@dlgf.in.gov.

Pertinent Part of HEA 1071-2009

HOUSE ENROLLED ACT No. 1071

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SOURCE: IC 6-1.1-12.6-2.1; (09)HE1071.1.1. -->

SECTION 1. IC 6-1.1-12.6-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.1. (a) This section applies only to a model residence that is first assessed as:**

- (1) a partially completed structure; or
- (2) a fully completed structure;

for the assessment date in 2008 and was still a model residence on January 1, 2009.

(b) Except as provided in subsection (c) and sections 4, 5, and 6 of this chapter, and subject to sections 7 and 8 of this chapter, an owner of a model residence is entitled to a deduction from the assessed value of the model residence in the amount of fifty percent (50%) of the assessed value of the

model residence for the 2008 assessment date. A deduction under this section counts as a deduction for an assessment date for purposes of section 2 of this chapter.

(c) A property owner that qualifies for the deduction under this section must file a statement containing the information required by subsection (d) with the county auditor to claim the deduction for the 2008 assessment date in the manner prescribed in emergency rules, which shall be adopted by the department of local government finance under IC 4-22-2. The township assessor shall

verify each statement filed under this section, and the county auditor shall:

(1) make the deductions; and

~~(2) notify the county property tax assessment board of appeals of all deductions approved;~~
under this section. If the property taxes due for the 2008 assessment date have been paid, the person that paid the property taxes is entitled to a refund of the amount that has been overpaid after applying the deduction under this section. A property owner is not required to apply for a refund due under this section. The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund due the property owner. In the June or December settlement and apportionment of taxes, or both, immediately following a refund made under this section the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.

(d) The statement referred to in subsection (c) must be verified under penalties for perjury and must contain the following information:

(1) The assessed value of the real property for which the person is claiming the deduction.

(2) The full name and complete business address of the person claiming the deduction.

(3) The complete address and a brief description of the real property for which the person is claiming the deduction.

(4) The name of any other county in which the person has applied for a deduction under this section for that assessment date.

(5) The complete address and a brief description of any other real property for which the person has applied for a deduction under this section for the 2008 assessment date.

(e) This section expires January 1, 2011.

Emergency Rule LSA Document # 09-360(E)

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Emergency Rule
LSA Document #09-360(E)

DIGEST

Temporarily adds provisions to provide the methodology for qualified owners of a model residence to claim the deduction for the 2008 assessment date by filing an application with auditor of the county where the property is located, and provides guidance to elected officials with respect to the deduction. Statutory authority: IC 4-22-2; IC 6-1.1-12.6-2.1. Effective May 15, 2009.

SECTION 1. (a) "Affiliated group" has the meaning set out in IC 6-1.1-12.6-0.5.

(b) "Allocation area" has the meaning set forth in IC 6-1.1-21.2-3.

(c) "Model residence" has the meaning set forth in IC 6-1.1-12.6-1.

SECTION 2. (a) The deduction from the assessed value of a model residence described in subsection (b) is applicable only to a model residence that is first assessed as a:

(1) partially completed structure; or

(2) fully completed structure;

for the assessment date in 2008 and which was still a model residence on January 1, 2009.

(b) A property owner who qualifies for the model residence deduction as set forth in IC 6-1.1-12.6 is entitled to a deduction from the assessed value of the model residence in the amount of fifty percent (50%) of the assessed value of the model residence for the 2008 assessment date.

SECTION 3. (a) A property owner who qualifies for the model residence deduction for the 2008 assessment date must file a claim for the deduction not later than December 31, 2010 with the county auditor on the form prescribed by the department of local government finance.

(b) The form must be verified under the penalties for perjury and contain all of the following information:

(1) The assessed values of the real property for which the person is claiming the model residence deduction.

(2) The full name and complete business address of the person claiming the model residence deduction.

(3) The complete address and a brief description of the real property for which the person is claiming the model residence deduction.

(4) The name of any other county in which the person has applied for a model residence deduction for the 2008 assessment date.

(5) The complete address and a brief description of any other real property for which the person has applied for a model residence deduction for the 2008 assessment date.

SECTION 4. The township assessor (if any) or the county assessor must verify the information contained in each form claiming the model residence deduction for the 2008 assessment date.

SECTION 5. (a) The county auditor must make the model residence deduction and notify the county property tax assessment board of appeals of all approved deductions for the 2008 assessment year.

(b) The county auditor with whom the claim is filed must immediately prepare and transmit a copy of the claim to the auditor of any other county if the property owner claims a model residence deduction in the other county for the 2008 assessment year.

(c) The county auditor receiving the copy of the claim described in subsection (b) must note on the copy whether the property owner has claimed a deduction for the 2008 assessment year for a model residence in that county. The county auditor must then return the copy of the statement to the auditor who sent the copy.

SECTION 6. (a) A property owner who is not an affiliated group may not receive the deduction for more than three (3) model residences in Indiana for the 2008 assessment date.

(b) Owners of model residences who are part of an affiliated group may not exceed an aggregate of three (3) model residence deductions for the 2008 assessment date.

SECTION 7. A property owner may not receive a model residence deduction for the 2008 assessment year for a model residence located in an allocation area as defined in IC 6-1.1-21.2-3.

SECTION 8. (a) A property owner that qualifies for a model residence deduction and also qualifies for a deduction under another statute with respect to the same model home for the 2008 assessment year may not receive a deduction under both statutes for the 2008 assessment year.

(b) A county auditor who receives claims for more than one deduction with respect to a model residence for the 2008 assessment year may approve only one (1) of the deductions. If the model residence owner is otherwise qualified, the county auditor must approve the deduction that results in the greater property tax saving for the owner of the model residence.

SECTION 9. If ownership of the model residence changed during the 2008 assessment year:

- (1) the new owner that continued to use the property as a model residence may claim the model residence deduction for the 2008 assessment date;**
- (2) the deduction only applies for the 2008 assessment date; and**
- (3) there can be only one model residence deduction per model residence for the 2008 assessment date.**

SECTION 10. (a) If the property taxes due for the 2008 assessment date have been paid, the person that paid the property taxes is entitled to a refund of the amount that has been overpaid after applying the model residence deduction.

(b) A property owner is not required to apply for a refund due as a result of the model residence deduction for the 2008 assessment year.

(c) The county auditor must, without appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund due the property owner.

SECTION 11. (a) In the June or December settlement and apportionment of taxes, or both, immediately following a refund made for the model residence deduction for the 2008 assessment date, the county auditor must deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and must pay the amount so deducted into the general fund of the county.

(b) The county auditor must make the deductions and payments required by subsection (a) not later than the December settlement and apportionment.