HOMESTEAD STANDARD DEDUCTION AND OTHER DEDUCTIONS

Frequently Asked Questions (FAQs)

Revised January 5, 2011

For additional information regarding deductions, please visit http://www.in.gov/dlgf/2344.htm.

Table of Contents

Homestead Deduction Terms Defined

1. Question: What is a "dwelling"?

Answer: "Dwelling" means any of the following:

- Residential real property improvements, which an individual uses as his residence, including a house or garage;
- A mobile home that is not assessed as real property that an individual uses as the individual's residence; ***or***
- A manufactured home that is not assessed as real property that an individual uses as the individual's residence. IC 6-1.1-12-37.

2. Question: What is a "homestead"?

Answer: "Homestead" means an individual's principal place of residence which:

- is located in Indiana;

- that:
  - the individual owns;
  - the individual is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence;
  - the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); ***or***
  - is a residence described in IC 6-1.1-12-17.9 that is owned by a trust if the individual is an individual described in IC 6-1.1-12-17.9 ***and***

- the principal place of residence consists of a dwelling (including residential yard structures attached to the dwelling such as decks, patios and gazebos) and the real estate (up to one (1) acre) that immediately surrounds that dwelling. Swimming pools are not considered homestead property. IC 6-1.1-12-37.

Except as provided in IC 6-1.1-12-37(k), the term "homestead" does not include property owned by a corporation, partnership, limited liability company or other entity. Per IC 6-1.1-12-37(k), "homestead" includes property that satisfies each of the following requirements:

- The property is located in Indiana and consists of a dwelling and the real estate (up to one (1) acre) that immediately surrounds that dwelling.

- The property is the principal place of residence of an individual.

- The property is owned by an entity other than an individual or trust.

- The individual residing on the property is a shareholder, partner or member of the entity that owns the property.

- The property was eligible for the homestead standard deduction on March 1, 2009.

3. Question: What is a "principal place of residence"?

Answer: "Principal place of residence" means an individual's true, fixed, permanent home to which the individual has the intention of returning after an absence. 50 IAC 24-2-5.

Dates/Deadlines

4. Question: What is the deadline by which deduction(s) applications must be filed in order to receive the deduction(s) for the following calendar year's property tax bills?

Answer: With respect to real property, the application must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county on or before January 5 of the immediately succeeding calendar year. (Therefore, if the application is completed and dated on or before December 31, 2010 and filed with the county on or before January 5, 2010, the deduction application deadline would be satisfied for property taxes first due and payable in 2011.)

With respect to personal property mobile or manufactured homes, the application must be completed, dated and filed with the county during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. (Therefore, if the application is filed before March 31, 2011, the deduction application deadline would be satisfied for property taxes first due and payable in 2011.)

5. Question: Does the December 31 application deadline change the "ASSESSMENT DATE" to December 31 as well? What if a property was vacant land on the assessment date (March 1) but has a home on it as of December 31?

Answer: March 1 remains the assessment date for all real and personal property (except annually assessed personal property mobile/manufactured homes which are assessed January 15). Although a deduction applicant is not required to own a property as of March 1 in order to claim deductions on the property, it is still the assessment date.

Keep in mind, if a "homestead" was not in existence on the assessment date, the property owner is not eligible for the homestead standard deduction for property taxes due in the following calendar year. For example, a property is vacant land at the time it was assessed on March 1, 2010. The property taxes due and payable in 2011 for that property are calculated based on the March 1, 2010 assessment of the property as vacant land. Since there is no "dwelling" or "principal place of residence" in existence on the property on the March 1, 2010 assessment date, the homestead standard deduction could not be applied for the property taxes due and payable in 2011.

Likewise, if there is no mortgage balance as of the assessment date, the property owner is not eligible for the mortgage deduction for property taxes due in the following year. For example, a person purchases a property on March 2, 2010 and files for the mortgage deduction. The mortgage balance on March 1, 2010 is $0; therefore, the amount of the mortgage deduction received for 2010-pay-2011, even though the person met the application deadline, would be $0.

6. Question: In order for a deduction to apply, by which dates must the property be conveyed to the new owner?

Answer: The conveyance resulting in ownership and the application for the deduction must be completed and dated during the calendar year (January 1 to December 31) and filed with the county on or before January 5 of the succeeding calendar year to receive the benefit of the deduction for the following year.

7. Question: At what point are the deductions removed? Which year?

Answer: Beginning with property taxes due and payable in 2010, if the deduction is on the property as of the assessment date and the owner of the property becomes ineligible during the calendar year, the deduction should remain on the property for the property taxes due and payable in the following year and then be removed. For example, the homestead standard deduction is accurately applied to a property as of March 1, 2010, but the property owner becomes ineligible for the deduction on or before December 31, 2010. The homestead deduction should remain on the property for the 2010-pay-2011 property taxes and be removed for 2011-pay-2012 unless a new owner purchases the property and meets all eligibility requirements, including filing, for his own homestead standard deduction on or before December 31, 2011.

Foreclosures

8. Question: Jim Brown owned a house and had a homestead filed on it. In September 2010, it was foreclosed on and deed to the bank. When should the homestead be removed?

Answer: Assuming the homestead was accurately applied to the property as of March 1, 2010, the homestead deduction will be applied to the 2010-pay-2011 property taxes regardless of changes in ownership or eligibility which occurred later in the year. Because the bank will not be eligible to claim its own homestead on the property, the deduction should be removed from the property beginning with the 2011-pay-2012 property taxes unless a new owner purchases the property and meets all eligibility requirements, including filing, for his own homestead deduction on or before December 31, 2011.

Applying Deductions to Split Parcels

9. Question: What about a buyer who purchased only one (1) acre and a house out of a larger tract of land? How is this to be handled regarding deductions?

Answer: March 1 is still the assessment date for all real and personal property (except personal property mobile homes which are assessed as of January 15). This is particularly important to keep in mind with regards to “splits.” Think of a “split” as when would it be in place for assessment purposes. In other words, use the March 1 assessment date as a cut-off – a “split” existing on or before the March 1, 2010 assessment date is effective for 2010-pay-2011, any “split” in place after the March 1, 2010 assessment date is for 2011-pay-2012.

Although the “split” may not be assessed as a separate property until the following year, if the property owner meets all eligibility requirements including the application deadlines, deductions may be applied to the property in the current year. For example, an individual purchases one (1) acre and a house from a larger parcel on March 2, 2010. The “split” will not take effect until 2011-pay-2012. However, the individual completes and dates the deduction application by December 31, 2010 and files it on or before January 5, 2011. Assuming the individual meets all eligibility requirements for those deductions, they will be applied to the parcel for the 2010-pay-2011 property taxes.

Homestead Standard Deduction

10. Question: Who is eligible to claim a homestead standard deduction? Is a Limited Liability Company (LLC) eligible for the homestead standard deduction?

Answer: An individual who, on the assessment date or any date in the same year after an assessment date when an application is filed, either:

(1) Owns the residence;
(2) Is buying the residence under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; or
(3) Is entitled to occupy the residence as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing cooperation (as defined in 26 U.S.C. 216).

A trust is entitled to the homestead standard deduction for property owned by the trust and occupied by an individual if the county auditor determines that the individual:

(1) Upon verification in the body of the deed or otherwise, has either:
    a. A beneficial interest in the trust; or
    b. The right to occupy the property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);
(2) Otherwise qualifies for the deduction; and
(3) Would be considered the owner of the property under IC 6-1.1-1-9(f) or IC 6-1.1-1-9(g).

A corporation, partnership, LLC or other entity may only receive the homestead standard deduction if the property satisfies the following requirements:

(1) The property is located in Indiana and consists of a dwelling and the real estate (up to one (1) acre) that immediately surrounds that dwelling.
(2) The property is the principal place of residence of an individual.
(3) The property is owned by an entity other than an individual or trust.
(4) The individual residing on the property is a shareholder, partner or member of the entity that owns the property.
(5) The property was eligible for the homestead standard deduction on March 1, 2009.

11. Question: When someone applies for the homestead standard deduction do they have to be living in the property on or before December 31 to receive the deduction for the property taxes due and payable in the following year?

Answer: The individual must meet all eligibility requirements on the date the deduction application is completed and dated. In order to receive a homestead deduction, the property must be the individual's "principal place of residence."

If the owner of the property on the assessment date had the deduction accurately applied to the property, the deduction will be applied to the property taxes due and payable in the following year. For example, the property owner accurately has the homestead deduction applied to the property as of March 1, 2010. The property owner then changes of the use of the property to a rental later in the year. The homestead deduction will be applied to the 2010-pay-2011 property taxes although the property owner is no longer living on the property as of December 31, 2010. (The deduction will be removed for the 2011-pay-2012 property taxes.)

If an individual purchases a property where the homestead was not accurately applied as of the assessment date, the individual must meet all eligibility requirements on the date the application is completed and dated and continue to meet those requirements through the end of the year. For example, on March 2, 2010 an individual purchases a property that was previously utilized as a rental. The individual is utilizing the property as his or her principal place of residence and so files for the homestead deduction at the time of closing. However, the individual moves from the property on or before December 31, 2010 and is no longer utilizing the property as his or her principal place of residence. The homestead deduction would not be applied for 2010-pay-2011.

12. Question: Does it matter if the previous owner of home which a new owner is moving into has the homestead standard deduction?

Answer: If the previous owner had the homestead deduction accurately applied to the property as of the assessment date, the new owner will receive the benefit of that deduction on the property taxes due and payable in the following year. For example, if the previous owner had the homestead deduction accurately applied to the property as of March 1, 2010, the new owner will receive the homestead deduction on the 2010-pay-2011 property taxes regardless of whether or not the new owner meets eligibility requirements or has filed his own deduction application. In order for the new owner to continue receiving the homestead deduction in 2011-pay-2012 and thereafter, he would need to meet all eligibility requirements and complete and date an application by December 31, 2011 and file the application by January 5, 2011.

13. Question: Can more than one individual or married couple receive a homestead standard deduction for the same property in the same year?

Answer: No. Only one (1) individual or married couple may receive a homestead standard deduction for a particular homestead property in a year.

14. Question: A married couple owns two homes. The husband and wife each claim to be living in a different home, can they both have a homestead standard deduction?

Answer: A married couple is limited to one homestead standard deduction statewide regardless of living arrangements or how the properties are deeded. Under IC 6-1.1-12-37(h), the county auditor may not grant an individual or a married couple a homestead standard deduction if the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and the applications claim the deduction for different property. This same limitation applies whether the homes are located in the same or different counties or states.

If on March 1, 2010 a man and woman each own a home and are receiving the homestead standard deduction on each of those individual properties, the one homestead standard deduction limitation does not apply should the couple marry and apply for the homestead standard deduction on their joint residence. The homesteads will remain on the individual properties of the husband and wife for 2010-pay-2011 without affecting the eligibility of the married couple to receive the homestead standard deduction on their joint property for 2010-pay-2011.

15. Question: A father has a life estate with the remainder interest going to his sons. One of his sons is living on the property, but the father is not. Can the son receive the homestead standard deduction on the property?

Answer: In order to receive the homestead standard deduction, the son must be considered an owner of the property. IC 6-1.1-1-9(f) states that when a life tenant of real property (the father in this example) is in possession of the real property, the life tenant is the owner of that property. Upon the death of the father, ownership of the property will transfer to the sons. The property is the son’s principal place of residence, but he does not own the property until his father’s death. Therefore, the son is ineligible to receive the homestead deduction on the property. In addition, since the property is not the principal place of residence of the father, he also is ineligible to receive the homestead deduction on the property.

16. Question: Can an individual residing in a nursing home or long-term care facility still receive the homestead standard deduction?

Answer: An individual may receive the homestead standard deduction if the individual is absent from the property while in a nursing home, hospital or assisted living facility so long as the property is being maintained as the individual’s residence with the intention of the individual returning to the property.

17. Question: A county has a lake that is surrounded by cottages. Some of the residents of these cottages are out-of-state residents that live on the lake only in the summertime. Are the out-of-state residents entitled to a homestead standard deduction on their Indiana lake cottage?

Answer: In order to receive a homestead deduction on the Indiana property, the individual/married couple must establish that the property is a principal place of residence and that a homestead-type deduction is not received by the individual/married couple in any other county or state.

In order to determine eligibility, the county auditor may request proof that the property is the applicant's principal place of residence. The applicant may provide the auditor with any of the following documents to prove that the property is the applicant's principal place of residence:

(1) An Indiana identification card issued by the state of Indiana.
(2) An Indiana driver license or permit with a photo issued by the state of Indiana.
(3) An Indiana gun permit.
(4) A bank statement issued within sixty (60) days of application.
(5) Form W-2 (federal or state) or Form 1099.
(6) A state or federal tax return.
(7) A computer generated pay check stub.
(8) A valid employee identification card with a photo.
(9) A valid Indiana professional license.
(10) A valid insurance card.
(11) A Medicare or Medicaid card.
(12) U.S. military discharge or DD214 separation papers.
(13) An Indiana residency affidavit.
(14) A voter registration card.
(15) A valid Indiana vehicle or watercraft title or registration.
(16) Any other document with the applicant's name and the address of the residence for which the applicant claims the homestead standard deduction that provides information with reliability factors similar to the other documents listed that tends to show that the residence is the applicant's principal place of residence.

If the county auditor is satisfied that the individual/married couple utilizes the lake cottage as the "principal place of residence" and the individual/married couple are not receiving homestead benefits on any other property, the homestead standard deduction may be applied to the lake cottage.

18. Question: What are the penalties for falsely claiming the deduction?

Answer: A taxpayer will be liable for any additional taxes that would have been due on the property plus a 10% civil penalty on the additional taxes due if he or she fails to notify the county auditor that he or she is not eligible to receive the homestead deduction. Back taxes may be charged for up to three assessment dates if an individual falsely receives the homestead.

19. Question: Jill Green owns a house and has a homestead filed on it. She moved out of the house in August of 2010 and the property is now being used as a rental. When should the homestead deduction be removed? Would that be the same case if the mortgage and over 65 deductions also were applied to the property?

Answer: Assuming Ms. Green accurately had the homestead deduction applied to the property as of March 1, 2010, the deduction will be applied to the 2010-pay-2011 property taxes. The deduction will be removed beginning with the 2011-pay-2012 property taxes.

The mortgage deduction does not require the property be Ms. Green's residence. Therefore, so long as she remains an Indiana resident and continues to meet all other eligibility requirements the mortgage deduction may remain on this property. The Over 65 Deduction requires the property be the individual's residence. Therefore, the same guidelines as outlined above for the homestead deduction would apply. Assuming Ms. Green accurately had the Over 65 Deduction applied to the property as of March 1, 2010, the deduction will be applied to the 2010-pay-2011 property taxes. The deduction will be removed beginning with the 2011-pay-2012 property taxes.

Lastly, if an individual who is receiving the homestead standard deduction changes the use of the property so that it no longer qualifies for the homestead standard deduction (i.e., Ms. Green by changing the use from homestead to rental property), the individual is required to file a certified statement with the county auditor notifying the auditor of the change of use within sixty (60) days after the date of that change. An individual who fails to file the statement with the county auditor is liable for any additional taxes that would have been due on that property if the individual had filed the statement plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty is in addition to any interest and penalties for delinquent payment that might otherwise be due. Back taxes may be charged for up to three assessment dates.

20. Question: A non-profit owned property is sold to an individual April 1, 2010. The new owner completes and dates the deduction application by December 31, 2010 and files the application by January 5, 2011. Does the new owner get the non-profit exemption for 2010-pay-2011 or is it removed and the homestead granted?

Answer: The non-profit exemption will be removed when the property is sold because the new owner is not eligible for the non-taxable exemption. The owner of the property must be eligible for the exemption in order to receive it. Assuming the new owner meets all eligibility requirements, the homestead deduction will be applied for 2010-pay-2011.

Mortgage Deduction

21. Question: In order to determine the amount of the mortgage deduction, do we still need to look at the mortgage balance on the assessment date?

Answer: Yes, for purposes of determining the amount of the mortgage deduction, statute requires the county auditor to consider the balance of the mortgage on the assessment date.

Specifically, IC 6-1.1-12-1 provides that the total amount of the mortgage deduction which the person may receive for a particular year is the lesser of:

(1) The balance of the mortgage or contract indebtedness on the assessment date of that year;
(2) One-half (1/2) of the assessed value of the real property, mobile home or manufactured home; or
(3) Three thousand dollars ($3,000).

Therefore, the balance of the mortgage on the assessment date is to be considered for purposes of determining the amount of the mortgage deduction.

Keep in mind, however, as with all other deductions, the mortgage deduction application must be dated and completed by December 31 in order to receive the benefit of the deduction on the following year's property tax bills.

If a person buys a property between March 2, 2010 and December 31, 2010 and meets all eligibility requirements, he or she will receive a mortgage deduction of $0 on his or her 2010-pay-2011 property tax bill (unless the previous owner had a mortgage deduction accurately in place as of March 1, 2010). The balance of the mortgage on the assessment date (March 1, 2010) was $0 and the amount of the mortgage deduction is limited to the lesser of the balance of the mortgage or contract indebtedness on the assessment date, one-half the assessed value of the property or $3,000.

22. Question: A bank owned property is purchased by a new owner on July 29, 2010. The new owner completes, dates and files a mortgage deduction application by December 31, 2010. When should the mortgage deduction be applied to the property?

Answer: As stated above, the amount of the mortgage deduction is the lesser of the balance of the mortgage on the assessment date (i.e. March 1), one-half of the assessed value of the property or $3,000. Since there was no mortgage balance as of March 1, 2010 in this example, the new property owner will receive a mortgage deduction of $0 on his or her 2010-pay-2011 property tax bill. Assuming the balance of the mortgage and one-half of the assessed value of the property is at least $3,000, the full $3,000 mortgage deduction will be applied to the property on the 2011-pay-2012 property taxes.

23. Question: Sam buys a house sometime between March 1, 2010 and December 31, 2010. The house has a mortgage deduction on it from the previous owner. Can Sam receive this deduction for the 2010-pay-2011 property taxes?

Answer: Assuming the previous owner's mortgage deduction was accurately in place as of March 1, 2010, Sam will receive the benefit of this mortgage deduction on his 2010-pay-2011 property taxes. In order to continue receiving the benefit of the mortgage deduction on his 2011-pay-2012 property taxes, Sam must meet all eligibility requirements for the deduction, date and complete the deduction application by December 31, 2011 and file the application by January 5, 2012.

Disabled Veteran Deductions

24. Question: A widowed woman was married to a disabled veteran of the armed forces. While he was living, the deceased veteran's name was not on the deed to the property. The widow wants to apply for one of the disabled veteran's deductions on that property. Is the widow eligible to receive the veteran's deduction?

Answer: No, the widow is not eligible to receive the disabled veteran deduction on this property. While the disabled veteran was alive, he was not eligible to claim his deduction on this property because he was not an owner of the property.

Under both statutes pertaining to deductions for disabled veterans (IC 6-1.1-12-13; 14), the surviving spouse of a disabled veteran is only able to receive the deduction if the deceased disabled veteran would qualify for the deduction if the disabled veteran were still alive. In the fact pattern above, when the disabled veteran was alive, his name was not on the deed to the property for which the widow is seeking the deduction. Therefore, even if the disabled veteran husband were alive, he would not qualify for the deduction, because he did not own the property nor was he buying it under a contract. As a result, since the disabled veteran did not qualify for the deduction when he was alive, the surviving spouse does not qualify for it either.

Sales Disclosure Form as an Application

25: Question: Who keeps the original sales disclosure form when it is used an application for deductions?

Answer: The county assessor is required to keep the original sales disclosure from for five (5) years. The county auditor is required to keep the copies of each deduction application.

26: Question: What if a sales disclosure form is signed on December 31 but not filed until two weeks later? What date should be used for applying the deduction? Is there a deadline for title companies to submit sales disclosure forms to the county auditor?

Answer: Deduction applications, including those completed via the sales disclosure form, must be dated and completed by December 31 of the calendar year for which the person wishes to obtain the deduction and filed on or before January 5 of the immediately succeeding calendar year. Therefore, if the sales disclosure form is completed and dated on or before December 31, 2010 and filed on or before January 5, 2011, the application deadline would be satisfied for property taxes first due and payable in 2010.

If the sales disclosure form is not filed until two weeks after December 31 as outlined in the fact pattern above, the deduction would not be applied until the following year. Therefore, if the sales disclosure form is completed and dated on or before December 31, 2010 but not filed until January 15, 2011, the application deadline would not be satisfied for property taxes first due and payable in 2010. Assuming all other eligibility requirements are met, the deduction would first be applied to the 2011-pay-2012 property taxes.