The Tricks and Treats of Deductions

Department of Local Government Finance

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Deductions, Exemptions, and Credits, Oh My!

- What's the difference between a deduction, exemption, and credit?

  A deduction reduces the assessed value being taxed, an exemption excludes property from assessment and/or taxation, and a credit reduces the tax bill.

- This presentation and other Department of Local Government Finance materials are not a substitute for the law! This is not legal advice, just an informative presentation. The Indiana Code always governs.
- Most importantly, if you're not sure about something, ask first! DLGF will do its best to answer your questions. If the DLGF can't help, it will either refer you to the right agency or to your county attorney. Don't rely on rumors or third party information.

"Third Party"

Remember . . .

- If a deduction is validly in place as of March 1, it will stay in place for the assessment year, even if the property changes hands and the new owner is ineligible for it (*exemptions* come off during the same cycle!).
- What if a person has a homestead on his principal place of residence on March 1 but moves to new principal place of residence later in the year?

  The deduction will stay on the old property for that tax cycle and can be granted for the new property for the same tax cycle. See IC 6-1.1-12-37(h).

- NOTE: If, after March 1, a person moves from a property that existed on March 1 to a property that did not exist on March 1, the deduction on that first property must be cancelled for that tax cycle. The person could potentially receive a homestead deduction on only the property that did not exist on March 1.

The Homestead Deduction and Other Frights

“Taxing” Questions

- Can one spouse or owner receive an over 65 deduction while the other spouse or owner receives a veteran deduction?

  YES! State law prohibits the same PERSON from receiving an over 65 deduction AND certain other deductions, but it does not prohibit one spouse or owner from receiving an over 65 deduction and the other spouse or owner receiving a disability or veteran deduction. Please note that the fractional reduction in the over 65 deduction only occurs if the other owner is not 65 and NOT the applicant’s spouse. If the applicant’s spouse is under 65, there is no reduction!

- Remember that a homestead deduction applies to a dwelling and up to one acre surrounding that dwelling. Even if that acre straddles or overlaps two or more parcels, the deduction must be applied to that full acre. The fact that the acre straddles or overlaps multiple parcels doesn’t preclude the taxpayer from receiving a complete deduction on that acre!

"Taxing" Questions

- What happens if an individual receiving a homestead deduction transfers his property to a trust of which he is the beneficiary? Since the title of the property changed, doesn't a new homestead deduction need to be filed?

  - Consult IC 6-1.1-12-17.8(e):

    A trust entitled to a [homestead] deduction . . . for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

    (1) the individual who occupies the real property receives a [homestead] deduction provided . . . in a particular year; and

    (2) the trust remains eligible for the deduction in the following year.

    However, for purposes of a [homestead] deduction, the individuals that qualify the trust for a deduction must comply with the [verification form] requirement . . . before January 1, 2013.

- Thus, the homestead deduction is "carried over" to the trust and no new application must be filed.

"Taxing" Questions

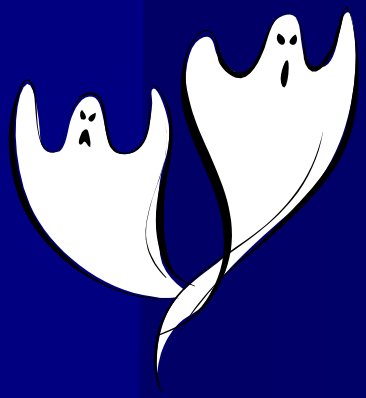
- Remember that if someone failed to file a verification form, the auditor may, in his or her discretion, terminate the deduction for the '12 Pay '13 cycle forward. To go back previous years, the auditor must have an independent reason for doing so. If a taxpayer who failed to file the verification form provides proof of his or her eligibility for the deduction for the '12 Pay '13 cycle (or a subsequent cycle for which the deduction was terminated for failure to file the form), the deduction MUST be reinstated.
- An auditor may limit what evidence he or she requests to a state income tax return, a valid driver's license, or a valid voter registration card.
- A dispute over eligibility for a homestead deduction in one year does not necessarily justify requesting documentation for multiple years, unless there truly is a basis for disputing eligibility in all those years. In other words, if there's a dispute over a person's eligibility for the deduction in '13 Pay '14, the auditor shouldn't tell the taxpayer to supply proof of eligibility for multiple years unless eligibility is genuinely in dispute for those years.
- Likewise, an auditor should not tell taxpayers that he or she will accept a homestead deduction application only if the applicant attaches or provides a Social Security card or tax return. If the auditor reviews the application and determines that there is a legitimate need for supporting documentation, that's one thing, but an auditor cannot impose additional criteria or steps for applying for a homestead deduction (there are some deductions, such as the vet deductions, that do require that supporting documentation be attached).
- NOTE: YOU CANNOT REQUIRE SUBMISSION OF AN ENTIRE SOCIAL SECURITY NUMBER UNLESS THERE IS EXPLICIT LEGAL AUTHORITY TO DO SO!

"Taxing" Questions

- A husband and wife divorce after March 1. The husband moves out, buys his own house, and applies for the homestead deduction. Should he receive the deduction on his new house? What should happen to the deduction on the old house?

  The husband can receive the deduction on the new property. Because the homestead was validly in place on the old house as of March 1, then the homestead will remain on that property for that tax cycle. The wife, especially if the title changes, should probably file for the deduction in her name for the next tax cycle.

- What if they divorced prior to March 1?



  If the wife's name was listed on the homestead application or she was a signatory to the sales disclosure form through which the homestead deduction was applied for and she is a titled owner or is named in the mortgage, then the county can probably leave the deduction in place (unless the title changed following the divorce but prior to March 1). The wife should then file for the deduction in her own name for the next tax cycle. If the wife's name was not listed on the homestead application or she is not a signatory to the sales disclosure form (but she's a titled owner or on the mortgage), then the county will have to determine whether it has sufficient information to allow or reinstate the deduction for that tax cycle (check the verification form!). Regardless of whether the wife's name is on the homestead application or she was a signatory to the sales disclosure form, if she is not a titled owner or on the mortgage, then she cannot be given a homestead deduction if she divorced before March 1.

“Taxing” Questions

- Remember that unless a couple is legally divorced, the couple is still married and entitled to only one homestead deduction. This is true even if the couple is living apart.
- The only exception to this idea is the following:

IC 6-1.1-12-37

(n) A county auditor shall grant an individual a deduction under this section regardless of whether the individual and the individual‘s spouse claim a deduction on two (2) different applications and each application claims a deduction for different property if the property owned by the individual's spouse is located outside Indiana and the individual files an affidavit with the county auditor containing the following information:

(1) The names of the county and state in which the individual‘s spouse claims a deduction substantially similar to the deduction allowed by this section.

(2) A statement made under penalty of perjury that the following are true:

(A) That the individual and the individual's spouse maintain separate principal places of residence.

(B) That neither the individual nor the individual's spouse has an ownership interest in the other's principal place of residence.

(C) That neither the individual nor the individual's spouse has, for that same year, claimed a standard or substantially similar deduction for any property other than the property maintained as a principal place of residence by the respective individuals.

A county auditor may require an individual or an individual's spouse to provide evidence of the accuracy of the information contained in an affidavit submitted under this subsection. The evidence required of the individual or the individual's spouse may include state income tax returns, excise tax payment information, property tax payment information, driver license information, and voter registration information.

"Taxing" Questions

- Does an LLC have to have a homestead deduction on the property on March 1, 2009 to continue to receive one?

  No. Under IC 6-1.1-12-37(k)(5), the property had to be "eligible for the standard deduction under [IC 6-1.1-12-37] on March 1, 2009." Thus, so long as the property was eligible for the deduction at that time, regardless of who owned it or whether the deduction was actually in place, this provision is satisfied.

- If someone refinances their home, do they need to re-file the homestead deduction application?

  No, unless the property has been transferred or the deed has been changed in some way. The mortgage deduction should be re-filed.

- What is the law on a person receiving the homestead deduction while absent from their principal place of residence?

  A person can continue to receive the homestead deduction even during an absence from their principal place of residence so long as the person has the intention of returning to the property and the property is maintained as his or her principal place of residence (in other words, not rented out) during the absence. This is true of people on business, who are deployed, or even who are incarcerated.

- Can a property have more than one mortgage deduction on it?

  Yes. Although a person can have only one mortgage deduction in his name, a property can have more than one mortgage deduction on it.

FYI

- Please note that HEA 1072-2012 amended the homestead deduction statute so that:

  If a property owner's property is not eligible for the homestead deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the PTABOA as provided in IC 6-1.1-15. The county auditor must inform the property owner of the owner's right to appeal to the PTABOA when the county auditor informs the property owner of the county auditor's determination. (Effective July 1, 2012)

FYI

- IC 6-1.1-20.6-2 was recently amended so that for purposes of the tax caps, "Homestead" refers to a homestead that has been granted a standard deduction under IC 6-1.1-12-37.
- This applies for the '14 Pay '15 cycle and beyond as it became law after March 1, 2013.

Veteran Deductions

Codes

- Code 1 is for:

A veteran that served during peace time that is partially disabled and is over age 62

A veteran that served during peace time that is totally (100%) disabled

or

A veteran that served during peace time or war time that has a pension.

A Code 1 remains a Code 1 and never goes to a Code 3

- Code 2 is for:

A veteran that served during war time that is partially disabled (10%-90%) and under age 62

A Code 2 can change to a Code 3

- Code 3 is for:

A veteran that served during war time that partially disabled and is over age 62

A veteran that served during war time that is totally disabled

Frequently Asked Questions . . .

- The Veteran's Administration says that a veteran is eligible for both veteran's deductions (Code 3). Does this mean we must automatically give the veteran both deductions at a total of $37,440?

  No. The VA's statement should be interpreted to mean that the veteran meets the *disability requirements* of the statutes. It is the county's obligation to ensure the veteran meets the other criteria, namely that the veteran owns or is buying property under contract and, in the case of the totally disabled veteran's deduction, that the veteran's property's AV doesn't exceed $143,160.

Deduction for Veterans with Partial Disability

- IC 6-1.1-12-13
- An individual may have $24,960 deducted from the assessed value of the taxable tangible property that the individual owns, or real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property that the individual is buying under a contract (the contract or a memorandum of the contract must be recorded in the county recorder's office) if . . .

Deduction for Veterans with Partial Disability

(1) the individual served in the military or naval forces of the United States during any of its wars;

(2) the individual received an honorable discharge;

(3) the individual has a disability with a service connected disability of 10% or more;

(4) the individual's disability is evidenced by:

(A) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs; or

(B) a certificate of eligibility issued to the individual by the Indiana Department of Veterans' Affairs ("IDVA") after IDVA has determined that the individual's disability qualifies the individual to receive a deduction; and

(5) the individual:

(A) owns the real property, mobile home, or manufactured home; or

(B) is buying the real property, mobile home, or manufactured home under contract;

on the date the deduction application is filed.

Deduction for Veterans with Partial Disability

- A person who receives this deduction may not receive the deduction provided by IC 6-1.1-12-16, which is the deduction for the surviving spouse of a World War I veteran.
- However, an individual may receive any other property tax deduction which he or she is entitled to by law.
- An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim this deduction against that real property, mobile home, or manufactured home.

Deduction for Totally Disabled Veteran or Partially Disabled Veteran Age 62 and Over

- IC 6-1.1-12-14
- An individual may have the sum of $12,480 deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if . . .

Deduction for Totally Disabled Veteran or Partially Disabled Veteran Age 62 and Over

- (1) the individual served in the military or naval forces of the United States for at least 90 days;
  (2) the individual received an honorable discharge;
  (3) the individual either:
  (A) has a total disability; or
  (B) is at least 62 years old and has a disability of at least 10% (need not be service-connected);
  (4) the individual's disability is evidenced by:
  (A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or
  (B) a certificate of eligibility issued to the individual by the IDVA after it has determined that the individual's disability qualifies him or her to receive this deduction; and
  (5) the individual:
  (A) owns the real property, mobile home, or manufactured home; or
  (B) is buying the real property, mobile home, or manufactured home under contract;
  on the date the deduction application is filed.

Deduction for Totally Disabled Veteran or Partially Disabled Veteran Age 62 and Over

- No one is entitled to this deduction if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds $143,160. YOU MUST CONSIDER ALL THE VET'S PROPERTY!
- An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim this deduction.

Applying for the Veterans Deductions

- IC 6-1.1-12-15
- An individual who desires to claim the partially or totally disabled veteran deductions must file a statement with the auditor of the county in which the individual resides (more appropriately, the individual should apply to the auditor of the county in which the property is located).
- With respect to real property, the statement must be filed during the year for which the individual wishes to obtain the deduction.
- With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the 12 months before March 31 of each year for which the individual wishes to obtain the deduction.
- The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement must contain a sworn declaration that the individual is entitled to the deduction.

Applying for the Veterans Deductions

- In addition to the statement, the individual shall submit to the county auditor for the auditor's inspection:

  (1) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs if the individual claims the partially disabled veteran deduction;

  (2) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs if the individual claims the totally disabled veteran; or

  (3) the appropriate certificate of eligibility issued to the individual by IDVA if the individual claims either deduction.

- If the individual claiming the deduction is under guardianship, the guardian shall file the statement.
- The statement must contain the record number and page where the contract or memorandum of the contract is recorded, if applicable.

Surviving Spouses

- The surviving spouse of a veteran may receive these deductions if the veteran satisfied the eligibility requirements of these deductions at the time of his or her death and the surviving spouse owns or is buying the property under contract at the time the deduction application is filed. The surviving spouse is entitled to the deduction regardless of whether the property for which the deduction is claimed was owned by the deceased veteran or the surviving spouse before the deceased veteran's death.
- If a deceased veteran's surviving spouse is claiming a veteran deduction, the surviving spouse shall provide the documentation necessary to establish that at the time of death the deceased veteran satisfied the requirements of IC 6-1.1-12-13 or IC 6-1.1-12-14, whichever applies.

Frequently Asked Questions . . .

- Can a surviving spouse continue to receive the disabled veteran deduction if he or she remarries?

  Yes. The surviving spouse of a veteran may receive the disabled veteran deduction(s) if the veteran satisfied the eligibility requirements of these deductions at the time of his or her death and the surviving spouse owns or is buying the property under contract at the time the deduction application is filed. The statute does not stipulate that the surviving spouse remain unmarried.

Deductions for World War I Veterans

- IC 6-1.1-12-17.4, IC 6-1.1-12-16, and IC 6-1.1-12-17 provide for a deduction for World War I veterans, their surviving spouses, and the process by which surviving spouses claim the deduction.
- Since there are currently no surviving World War I veterans (and probably no surviving spouses), it is unlikely you will encounter these issues.
- Please note that although IC 6-1.1-12-17 is entitled "Claim by surviving spouse of veteran," this is for the surviving spouse of a World War I veteran only!

Excise Taxes

- If there is an unused portion of a veteran's deduction remaining after the application of the deduction to a veteran's real property, the unused portion may be applied first toward any personal property taxes and then to any excise taxes the veteran owes.
- Indiana Code 6-6-5-5.2 enables veterans (or their surviving spouses) who do not own or are not buying property under contract that qualifies for a veteran deduction to receive a credit toward vehicle excise taxes. This statute applies to a registration year beginning after December 31, 2013 and was effective July 1, 2013.
- Thus, if a vet literally owns no property (or is not buying property under recorded contract) or if the only property he owns exceeds the assessed value threshold, then he does not own land that qualifies for a vet deduction and thus may qualify for the "excise-only" option. However, if the vet does qualify for the partially disabled vet deduction but does not qualify for the totally disabled vet deduction because of the assessed value of the property, then the vet may only apply any unused portion of the partially disabled vet deduction to excise taxes. He cannot also have the "excise-only" option.
- Per the BMV, although the law is currently in effect, since no one will be paying 2014 excise taxes until after the first of the year, no one is able to make use of this new provision until then. Thus, no affidavits should be provided until after the first of the year. The DLGF has prescribed an affidavit template, which is available at http://www.in.gov/dlgf/files/Auditor_Affidavit.doc.
- The maximum number of motor vehicles for which an individual may claim a credit is two. This credit must be claimed on a form prescribed by the bureau of motor vehicles. An individual claiming the credit must attach to the form the affidavit.

Deductions on Mobile Homes

- Can a veteran's deduction eliminate a taxpayer's liability on a mobile or manufactured home?

  No. IC 6-1.1-12-40.5 provides that the total deductions applicable to a mobile/manufactured home, not assessed as real estate, may not exceed one-half of the assessed valuation of the mobile/manufactured home.

- IC 6-1.1-12-40.5
  Limits on deductions for mobile or manufactured homes
  Sec. 40.5. Notwithstanding any other provision, the sum of the deductions provided under this chapter to a mobile home that is not assessed as real property or to a manufactured home that is not assessed as real property may not exceed one-half (1/2) of the assessed value of the mobile home or manufactured home.

Deductions on Mobile Homes

- The homestead deduction statute and IC 6-1.1-12-40.5 seem to provide conflicting information regarding the maximum allowable deduction and the allocation of the deduction between the mobile home and real estate.

  IC 6-1.1-12-37: Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of: (1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or (2) forty-five thousand dollars ($45,000).

  IC 6-1.1-12-40.5: Notwithstanding any other provision, the sum of the deductions provided under this chapter to a mobile home that is not assessed as real property or to a manufactured home that is not assessed as real property may not exceed one-half (1/2) of the assessed value of the mobile home or manufactured home.

- To follow the statutory limitations set in both of these sections of the Indiana Code, the Department recommends that the homestead deduction be applied to the personal property mobile home and the land surrounding it up to one acre as follows:

Deductions on Mobile Homes

Personal Property Mobile Home Assessed Value	$15,000
Land Assessed Value	+ $5,000
Homestead (Personal Property Mobile Home and Land up to 1 acre) Assessed Value	= $20,000
Per IC 6-1.1-12-37, 60% deduction of homestead	= $12,000

Allocation of Deduction:

Per IC 6-1.1-12-40.5, maximum deductions of 50% of Personal Property Mobile Home Assessed Value = $7,500

Remainder of deduction applied to Assessed Value of Land ($12,000- $7,500) = $4,500

A veteran's deduction could potentially eliminate a taxpayer's liability on *real estate*.

Applying the Deduction to Real Estate

- Assessed value of real estate: $ 90,000
- – Less Homestead Deduction: - $ 45,000
- – Less Supplemental: - $ 15,750
- – Less Mortgage Deduction: - $ 3,000
- – Less Partially Disabled Deduction - $ 24,960

Net Assessed Value of Property = $ 1,290

Frequently Asked Questions . . .

- Can a veteran receive more than one veteran's deduction?

  Theoretically, yes. However, the total amount of the deductions combined cannot exceed the maximum established by statute. In other words, if the veteran owns two properties in a county, he can receive a deduction on both properties, but these deductions combined cannot exceed $24,960 or $12,480 (or possibly $37,440). You can view this as either two deductions or one deduction split between properties. The application should list the properties to which the vet wants the deduction applied.

Frequently Asked Questions . . .

- Similarly, what if a veteran owns property in two counties? With whom does he apply for a veteran's deduction?

  Although IC 6-1.1-12-15 provides that "an individual who desires to claim the deduction . . . must file a statement with the auditor of the county in which the individual resides," the veteran should really apply to the auditor of the county in which the property is located. The veteran's deduction statutes do not impose any residency requirements, so this provision in IC 6-1.1-12-15 is misleading. If the vet owns property in two counties, he should apply in both counties and indicate on the form that he is applying or has applied for the deduction in another county. The counties will then have to allot or apportion the deduction between the properties (again, these deductions combined cannot exceed $24,960 or $12,480 (or possibly $37,440)).

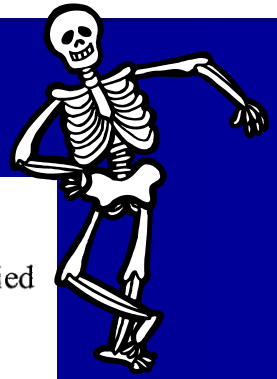
Frequently Asked Questions . . .

- Our county's vendor's software is set-up so that if all of a veteran's deduction cannot be applied to a mobile home, we apply it all toward excise taxes. Is this acceptable?

  If even a portion of a veteran's deduction (or any other deduction) can be applied to a mobile home before it reaches the 50% limit or to the real estate on which the mobile home sits, then either the software must be modified or the county will have to make manual adjustments to the data so that the mobile home receives as much of the deductions for which it is eligible as possible.

Frequently Asked Questions . . .

- What about trusts?



Trusts

A trust is entitled to the disabled veteran 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).

Note: When considering ownership, IC 6-1.1-1-9(f) states that when a life tenant of real property is in possession of the real property, the life tenant is the owner of that property. IC 6-1.1-1-9(g) states that when the grantor of a qualified personal residence trust is in possession of the real property transferred to the trust and entitled to occupy the real property rent free under the terms of the trust, the grantor is the owner of that real property.

Frequently Asked Questions . . .

- An individual has filed for a disabled veteran deduction on property in which he has a 5% interest. His children own the remaining 95%. Is he eligible for the disabled veteran deduction?

  Yes. The individual may apply his disabled veteran deduction, assuming all eligibility requirements are met, to any property of which he is an owner.

Frequently Asked Questions . . .

- Can the veteran's deductions be combined with other deductions?

  Yes. The veteran's deductions may be claimed with all other deductions EXCEPT the Over 65 Deduction (it is okay if the husband claims the veteran's deduction and the wife claims the Over 65 Deduction).

  The partially disabled veteran deduction cannot be combined with the surviving spouse of a World War I veteran deduction.

  The veteran's deductions may be claimed with the Over 65 Credit.

Frequently Asked Questions . . .

- What if two veterans own a property?

  If two individuals, both eligible veterans, own a property, then each is entitled to a full deduction.

Frequently Asked Questions . . .

- What if a veteran owns only personal property – can he still receive the deduction or must he own real property first?

  The veteran's deductions statutes say that the deduction is made to the assessed value of the *taxable tangible property* that the individual owns. Thus, if the veteran owns only personal property, the deduction can be applied to this property.

That's all, boils and ghouls!

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