IDVA Annual Conference

Department of Local Government Finance

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Overview

- Partially disabled veteran's deduction
- Totally disabled veteran's deduction
- Applying for the veteran's deductions
- World War I veteran's deductions
- Excise taxes
- Veterans' Administration codes
- Deductions on mobile homes
- Applying deductions to real estate
- Frequently asked questions

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 the law unto themselves – the Indiana Code always governs.

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) <u>if</u> . . .

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

- The surviving spouse of a veteran may receive this deduction if the veteran would qualify for the deduction if he or she were alive.
- It is assumed that if the veteran were still alive, his or her name would still be on the property title or mortgage. Thus, even if the veteran's name has been removed from the title or mortgage, if the veteran's name had been on the title or mortgage of the property at the time of his or her death and the veteran's spouse is now the titled owner or mortgagee of the property, the surviving spouse may receive the deduction.

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, or the Over 65 Deduction.
- 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) <u>if</u> . . .

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

- The surviving spouse of a veteran may receive this deduction if the veteran would qualify for the deduction if he or she were alive.
- 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. A person receiving this deduction may not also receive an Over 65 Deduction.
- 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.

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.
- However, the veteran must first qualify for the veteran's deduction, which means he or she must own or be buying property under contract. If the veteran does not own or is not buying property under contract, then he or she does not qualify for the deduction and thus there is nothing to apply toward excise taxes.
- IC 6-6-5-5
  Amount of tax credit against tax
  Sec. 5. (a) The amount of tax imposed by this chapter shall be based upon the classification of the vehicle, as provided in section 4 of this chapter, and the age of the vehicle, in accordance with the schedule set out in subsection (c) or (d).
  (b) **A person who owns a vehicle <u>and who is entitled to a property tax deduction under IC 6-1.1-12-13, IC 6-1.1-12-14</u>, IC 6-1.1-12-16, or IC 6-1.1-12-17.4 is entitled to a credit against the annual license excise tax** as follows: **<u>Any remaining deduction from assessed valuation</u> to which the person is entitled, applicable to property taxes payable in the year in which the excise tax imposed by this chapter is due, after allowance of the deduction on real estate and personal property owned by the person, shall reduce the annual excise tax** in the amount of two dollars ($2) on each one hundred dollars ($100) of taxable value or major portion thereof. The county auditor shall, upon request, furnish a certified statement to the person verifying the credit allowable under this section and the statement shall be presented to and retained by the bureau to support the credit.
- This is not a Department policy – it's the law!

Codes

- Code 1= Totally Disabled
- Code 2= Partially Disabled
- Code 3= Combination of the two or 100% service connected disability at wartime.

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

- What happens if a veteran qualifies for both the homestead deduction and a veteran's deduction, but the homestead deduction alone brings him to the 50% limit?

  Because all of the veteran's deduction is unused, all of it may be applied toward the veteran's personal property and excise taxes.

  It's okay that none of it can be applied to the veteran's homestead. What's important is that the veteran qualifies for the veteran's deduction.

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 Mortgage Deduction: - $ 3,000
- – Less Partially Disabled Deduction - $ 24,960

Net Assessed Value of Property = $ 17,040

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.

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.

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 . . .

- A surviving spouse was married to a disabled veteran whose name, while he was living, was not on the deed to their 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?

  No. While the disabled veteran was alive, he was not eligible to claim a veteran's deduction on this property because he was not an owner of the property (we're assuming he was not buying it under contract at the time of his death). Therefore, even if the disabled veteran husband were alive, he would not qualify for the deduction because he did not own the property. 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 now.

Frequently Asked Questions . . .

- The disabled veteran never applied with the Veteran's Department. Would the surviving spouse be eligible to apply for a veteran's deduction?

Can the widow produce any of the following:

> 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 after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section

If not, she probably could not receive the deduction. The surviving spouse can receive the deduction if the disabled veteran would qualify if he were alive. If the veteran were alive at this moment, he would not be eligible because he couldn't produce any of the above documents to evidence his disability.

If the widow can obtain these documents posthumously and provide them to the county, the county could probably grant the deduction.

Frequently Asked Questions . . .

- A surviving spouse transferred her property to her son and daughter-in-law, but she continues to live on the property alone. There are no deductions on the property this year, so she is now inquiring about the possibility of deeding a life estate to herself. Will she receive the full benefit of the veteran's deduction with her son and daughter-in-law as deeded owners?

  No. If the surviving spouse's son gives her a life estate in the property (and the deceased veteran had owned the property or was buying it while he was alive), then she could receive the deduction. However, if she doesn't have any ownership interest in the property (if her son doesn't give her a life estate or if the property is not titled in her name), then she would not be able to receive the deduction.

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) that the veteran would qualify for if the veteran were alive. The statute does not stipulate that the surviving spouse remain unmarried.

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 . . .

- A man sells his house in the fall and buys a home in another county. He came in to file in March of the next year. Does he get excise tax for that year?

  No, the taxes he pays next year are for this year's assessment. Therefore, he could not get the credit as he would receive the deduction twice. The excise credit would not apply.

Frequently Asked Questions . . .

- What if two veterans own a property?

  If two individuals, both veterans, own a property jointly, 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, folks!

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