

Proposed Rule
LSA Document #12-382

DIGEST

Adds [50 IAC 28](#) to establish formal procedures to govern the application for the residence in inventory deduction. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[50 IAC 28](#)

SECTION 1. [50 IAC 28](#) IS ADDED TO READ AS FOLLOWS:

ARTICLE 28. DEDUCTION FOR RESIDENCE IN INVENTORY

Rule 1. General Provisions

[50 IAC 28-1-1 Purpose](#)

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 1. The purpose of this article is to establish procedures to govern the application for the deduction for residences in inventory established under [IC 6-1.1-12.8](#).

(Department of Local Government Finance; [50 IAC 28-1-1](#))

[50 IAC 28-1-2 Applicability](#)

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 2. This article applies to taxpayers applying for the deduction for residences in inventory.

(Department of Local Government Finance; [50 IAC 28-1-2](#))

Rule 2. Definitions

[50 IAC 28-2-1 Applicability](#)

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 1. The definitions in this rule apply throughout this article.

(Department of Local Government Finance; [50 IAC 28-2-1](#))

[50 IAC 28-2-2 "Affiliated group" defined](#)

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.6-0.5](#); [IC 6-1.1-12.8](#); [IC 6-3-1-19](#)

Sec. 2. "Affiliated group" means any combination of the following in accordance with [IC 6-1.1-12.6-0.5](#):

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code must be determined using fifty percent (50%) instead of eighty percent (80%) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

(2) Two (2) or more partnerships as defined in [IC 6-3-1-19](#), including limited liability companies and limited liability partnerships that have the same degree of mutual ownership as an affiliated group described in subdivision (1).

(Department of Local Government Finance; [50 IAC 28-2-2](#))

[50 IAC 28-2-3](#) "Residence in inventory" defined

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8-1](#)

Sec. 3. "Residence in inventory" has the meaning set forth in [IC 6-1.1-12.8-1](#).

(Department of Local Government Finance; [50 IAC 28-2-3](#))

[50 IAC 28-2-4](#) "Residential builder" defined

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8-2](#)

Sec. 4. "Residential builder" has the meaning set forth in [IC 6-1.1-12.8-2](#).

(Department of Local Government Finance; [50 IAC 28-2-4](#))

Rule 3. Residence in Inventory Deduction

[50 IAC 28-3-1](#) Applicability of residence in inventory deduction

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 1. (a) The deduction from the assessed value of a residence in inventory described in subsection (b) is applicable only to a residence in inventory that is first assessed as a:

(1) partially completed structure; or

(2) fully completed structure;

for the assessment date in 2012 or a later year.

(b) A residential builder that is the owner of a qualified residence in inventory is entitled to a deduction from the assessed value of the residence in inventory in the amount of fifty percent (50%) of the assessed value of the residence in inventory for:

(1) not more than one (1) assessment date for which the residence in inventory is assessed as a partially completed structure;

(2) the assessment date for which the residence in inventory is first assessed as a fully completed structure; and

(3) the two (2) assessment dates that immediately follow the assessment date referred to in subdivision (2).

(Department of Local Government Finance; [50 IAC 28-3-1](#))

[50 IAC 28-3-2](#) Application for residence in inventory deduction

Sec. 2. (a) A residential builder that owns a qualified residence in inventory must file a claim for the deduction with the county auditor on the form prescribed by the department of local government finance for each assessment date for which the person wishes to receive the deduction.

(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 residence in inventory deduction.
- (2)** The full name and complete business address of the person claiming the residence in inventory deduction.
- (3)** The complete address and a brief description of the real property for which the person is claiming the residence in inventory deduction.
- (4)** The name of any other county in which the person has applied for a residence in inventory deduction 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 residence in inventory deduction for that assessment date.
- (6)** An affirmation by the person that he or she is not receiving more than three (3) residence in inventory deductions, including the deduction being applied for, either as:
 - (A)** the owner of the residence in inventory; or
 - (B)** an owner that is part of an affiliated group.
- (7)** An affirmation that the real property has not been leased and will not be leased for any purpose during the term of the deduction.

(c) The assessing official must verify each statement in the claim for the residence in inventory deduction.

(d) The county auditor must approve the residence in inventory deduction and notify the county property tax assessment board of appeals of all approved deductions.

(e) 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 person owns or is buying a residence in inventory in the other county.

(f) The county auditor receiving the copy of the claim described in subsection (e) must note on the copy whether the property owner has claimed a deduction for the current year for a residence in inventory in that county. The county auditor must then return the copy of the statement to the auditor who sent the copy.

(Department of Local Government Finance; [50 IAC 28-3-2](#))

Rule 4. Limitations on Residence in Inventory Deduction

[50 IAC 28-4-1](#) Limit of three residence in inventory deductions

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 1. (a) An owner of a qualified residence in inventory who is not an affiliated group as defined in [50 IAC 28-2-2](#) may not receive the deduction for more than three (3) qualified residences in inventory in Indiana for a particular assessment date.

(b) Owners of residences in inventory who are part of an affiliated group as defined in [50 IAC 28-2-2](#)

may not exceed an aggregate of three (3) residences in inventory deductions for a particular assessment date.

(Department of Local Government Finance; [50 IAC 28-4-1](#))

[50 IAC 28-4-2](#) Deduction not applicable in allocation areas

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#); [IC 6-1.1-21.2-3](#)

Sec. 2. An owner may not receive a residence in inventory deduction for a qualified residence in inventory located in an allocation area as defined in [IC 6-1.1-21.2-3](#).

(Department of Local Government Finance; [50 IAC 28-4-2](#))

[50 IAC 28-4-3](#) One deduction per residence in inventory per year

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 3. (a) An owner of a residence in inventory that qualifies for the residence in inventory deduction and also qualifies for a deduction under another statute with respect to the same residence in inventory may not receive a deduction under both statutes for that year.

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

(Department of Local Government Finance; [50 IAC 28-4-3](#))

Rule 5. Change in Ownership

[50 IAC 28-5-1](#) Application of the deduction upon change of ownership

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 1. If ownership of the qualified residence in inventory changes:

- (1) a new owner that is a residential builder for which the property is a residence in inventory may claim the residence in inventory deduction; and
- (2) the deduction may not be applied for an assessment date other than the assessment dates to which the deduction could have applied if ownership had not changed.

(Department of Local Government Finance; [50 IAC 28-5-1](#))

[50 IAC 28-5-2](#) Obligation of owner of residence in inventory upon transfer of ownership

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-5.5](#); [IC 6-1.1-12.8](#)

Sec. 2. An owner of residence in inventory who claims a residence in inventory deduction must provide to the county auditor a notice that:

- (1) informs the auditor of a transfer of the ownership of the qualified residence in inventory; and
- (2) indicates whether the new owner is eligible to receive a residence in inventory deduction.

The notice must be submitted to the county auditor at the same time that a sales disclosure form is filed under [IC 6-1.1-5.5](#).

(Department of Local Government Finance; [50 IAC 28-5-2](#))

[50 IAC 28-5-3](#) Termination

Authority: [IC 6-1.1-12.8-8](#)

Affected: [IC 6-1.1-12.8](#)

Sec. 3. (a) The deduction allowed for a residence in inventory is terminated if the residence in inventory is transferred after the assessment date of that year but before January 1 of the following year to a person who does not continue to use the property as a residence in inventory.

(b) The county auditor must immediately mail notice of the termination to the former owner, the property owner, and the township assessor, if there is one, or, if not, the county assessor.

(c) The county auditor must:

- (1) remove the deduction from the tax duplicate; and
- (2) notify the county treasurer of the termination of the deduction.

(d) A residence in inventory deduction does not apply for a particular assessment date if the residence in inventory is leased for any purpose for any part of the calendar year in which the assessment date occurs.

(Department of Local Government Finance; [50 IAC 28-5-3](#))

[Notice of Public Hearing](#)

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