

**COUNTY AUDITORS' FALL  
2010  
CONFERENCE**

**Taxes & Penalties on Ineligible  
Homestead Credit**

**Dan Bastin, CPA  
Settlement Director  
Auditor of State**

1

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17**

- **IC 6-1.1-36-17 prescribes**
  - **County Auditor notification of ineligible standard deduction and, if applicable, ineligible homestead credit**
  - **Calculation of adjustment in tax after termination of deduction and, if applicable, homestead credit**
  - **Establishment of non-reverting fund to receive tax and, if applicable, penalty due after termination of deduction and, if applicable, homestead credit**
  - **Permissible uses of non-reverting fund**

2

---

---

---

---

---

---

---

---

**IC 6-1.1-12-37(f)**

- **IC 6-1.1-12-37(f) prescribes**
  - **10% civil penalty due on additional taxes from termination of standard deduction**
  - **Remittance to state of 1% of the civil penalty**
  - **Civil penalty becomes part of property tax liability**

3

---

---

---

---

---

---

---

---

**IC 6-1.1-12-37(f)  
10% Civil Penalty**

- If an individual's use of property changes so that part or all of the property no longer qualifies for a standard deduction, then
  - The individual is required to notify the county auditor of the change not more than 60 days after the change
- If the individual fails to notify the county auditor within the 60 days, then
  - The individual is liable for the additional taxes resulting from the change in the standard deduction or the termination of the standard deduction
  - And is liable for a 10% civil penalty on the additional taxes

4

---

---

---

---

---

---

---

---

**IC 6-1.1-12-37(f)  
10% Civil Penalty**

- 1% of the civil penalty is remitted to the state auditor at settlement as DLGF Homestead Property Database Fund
- 99% of the civil penalty is revenue to the IC 6-1.1-36-17 non-reverting fund

5

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17 & IC 6-1.1-12-37(f) Additional Tax**

- The additional property tax is equal to the tax resulting from the change or termination of the
  - Standard deduction
  - If applicable, supplemental standard deduction
  - If applicable, homestead credit (state and/or local)
  - If applicable, circuit breaker credit

6

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17 & IC 6-1.1-12-37(f) Additional Tax**

- Tax rates and, if applicable, credit rates used to calculate additional tax are the tax rates and credit rates applicable to the tax year calculated
  - For example if the additional tax calculated is for 2008 pay 2009, then use 2008 pay 2009 rates
  - If the calculation is for multiple years, then each year is calculated using the rates applicable to that year

7

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17 Notification of Ineligible Standard Deduction**

- When county auditor determines an ineligible standard deduction, then county auditor
  - Notifies county treasurer
  - Issues notice to owner of tax and, if applicable, penalty due
    - Notice to include statement that the payment is payable to county auditor
    - And include a statement that the full amount is due within 30 days after the date of the notice

8

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17 Non-Reverting Fund**

- Receives the additional tax and 99% of the 10% civil penalty
- Fund title is County Auditor's Ineligible Deductions Fund
- Expenditures require county council appropriation

9

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17  
Non-Reverting Fund**

- **Permissible uses**
  - Fees and cost incurred by the county auditor to discover property eligible for a standard deduction or homestead credit
  - Cost incurred in the preparing, sending and processing the "pink" forms
  - Other cost of the county auditor's office

10

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17  
Non-Reverting Fund**

- **The deposits to the fund, balance of the fund and expenditures from the fund may not be considered in**
  - Establishing the county auditor's budget, or
  - Setting property tax levies that will be used in any part to fund the county auditor's budget

11

---

---

---

---

---

---

---

---

**IC 6-1.1-36-17  
Non-Reverting Fund**

- **The non-reverting fund under this IC is separate from the general fund and is a special revenue fund**
- **The year end cash balance carries forward to the next year**
- **The appropriation balances only carry forward if legally encumbered at year end**

12

---

---

---

---

---

---

---

---

## Collection of the Additional Tax & Civil Penalty

- If collected within 30 days of county auditor's notice, then
  - The additional tax collected is quietus to the County Auditor's Ineligible Deductions Fund
  - 99% of the civil penalty collected is quietus to the County Auditor's Ineligible Deductions Fund
  - 1% of the civil penalty collected is quietus to the DLGF Homestead Property Database Fund

13

---

---

---

---

---

---

---

---

## Collection of the Additional Tax & Civil Penalty

- If not collected in full within 30 days of county auditor's notice, then
  - The uncollected additional tax and civil penalty is added to a separate section of the tax duplicate
  - Suggested title of the separate section of the tax duplicate is "Ineligible Standard Deduction"

14

---

---

---

---

---

---

---

---

## Collection of the Additional Tax & Civil Penalty

- The amount added to the "Ineligible Standard Deduction" section of the tax duplicate is collected in the same manner as other property taxes
  - Collected by county treasurer
  - Tax statement issued
  - Eligible for late payment penalties at the next regularly schedule tax due date, if the tax due date is at least 15 days after the tax statement is issued
  - Non-payment can cause property to be eligible for tax sale

15

---

---

---

---

---

---

---

---

### **Collection of the Additional Tax & Civil Penalty**

- When the tax duplicate "Ineligible Standard Deduction" tax and/or civil penalty amount is collected by the county treasurer, then
  - The tax amount is receipted to the Other Sources Section of the Cash Book to a new line labeled "Ineligible Standard Deduction - Tax Collection"
  - The civil penalty amount is receipted to the Other Sources Section of the Cash Book to a new line labeled "Ineligible Standard Deduction - Civil Penalty Collection"

16

---

---

---

---

---

---

---

---

### **Additional Tax & Civil Penalty - Settlement Procedure**

- At Settlement the county treasurer will certify in the Other Collections Section of the Form 49TC
  - The Ineligible Standard Deduction - Tax Collection amount
  - And the Ineligible Standard Deduction - Civil Penalty Collection amount
  - The amounts certified will be the amounts that are on each of those lines in the Other Sources Section of the Cash Book

17

---

---

---

---

---

---

---

---

### **Additional Tax & Civil Penalty - Settlement Procedure**

- At Settlement the county auditor will quietus to the County Auditor's Ineligible Deductions Fund
  - The Ineligible Standard Deduction - Tax Collection certified amount
  - And 99% of the Ineligible Standard Deduction - Civil Penalty Collection certified amount

18

---

---

---

---

---

---

---

---

### **Additional Tax & Civil Penalty - Settlement Procedure**

- At Settlement the county auditor will quietus to the DLGF Homestead Property Database Fund
  - 1% of the Ineligible Standard Deduction - Civil Penalty Collection certified amount
  - The county auditor will remit to the state auditor the total amount in the DLGF Homestead Property Database Fund including the amount quietus to the fund at the current Settlement

19

---

---

---

---

---

---

---

---

### **Late Payment Penalty on Additional Tax**

- Once the unpaid additional tax is added to the "Ineligible Standard Deduction" section of the tax duplicate and billed on a tax statement, then the unpaid additional tax is eligible for late payment penalties
- The late payment penalties are applied against the unpaid balance at each tax due date
- The late payment penalties are added to the property parcel in the Real Estate section of the tax duplicate that is associated to the unpaid tax in the Ineligible Standard Deduction section of the tax duplicate

20

---

---

---

---

---

---

---

---