



Department of Local Government Finance

Property Tax Deductions and Exemptions

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General Overview

- 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! The Department will do its best to answer your questions. If the Department can't help, it will either refer you to the right agency or to your county attorney. Please do not rely on rumors or third party information.



Deductions and Exemptions

- Definitions
- Deductions
- Exemptions
- The Oaken Bucket Case
- Legislation
- Frequently Asked Questions
- Questions



Definitions



Deductions, Exemptions & Credits

- What's the difference between a deduction, an exemption, and a credit?
 - A ***deduction*** reduces the assessed value being taxed.
 - An ***exemption*** excludes property from assessment and/or taxation.
 - A ***credit*** reduces the tax bill.



Examples

- Exemption → property that is not taxable (to whatever extent).
 - E.g., churches, charitable organizations
 - IC 6-1.1-10; IC 6-1.1-11
- Deduction → reduces the taxable AV of a property by a fixed dollar amount.
 - E.g., Homestead, Mortgage, Over 65, Disabled Veteran
 - IC 6-1.1-12
- Credit → reduces the net tax bill by a designated percentage or prevents a tax bill from exceeding a certain percentage.
 - Circuit Breaker, Over 65, Local Homestead
 - IC 6-1.1-20.4; IC 6-1.1-20.6



Deductions

• Assessed value of real estate	\$ 90,000
• – Less Homestead Deduction:	- \$ 45,000
• – Less Supplemental:	- \$ 15,750
• – Less Mortgage Deduction:	- \$ 3,000
• – Less Partially Disabled Vet Deduction	- \$ 24,960*
• Net Assessed Value of Property =	<u>\$ 1,290</u>

- It is suggested that the veteran deduction be applied last so that if there is an unused portion remaining, the vet can seek an excise tax credit.
- **Homestead donated to a veteran deduction can be applied in any order!**
- It is possible for deductions to zero out a tax bill (personal property mobile homes may be an exception).
- **Deduction applications must be filled out and signed by December 31 and filed or postmarked by January 5.**



Deductions - Homestead

Homestead Standard Deduction

- Lesser of \$45,000 or 60% of the gross AV of the property;
- Applies to the dwelling (and those structures, such as decks and patios attached to the dwelling) and the surrounding acre (even if the acre straddles multiple parcels);
- Applies to property that is the applicant's principal place of residence, meaning the individual's true, fixed, permanent home **TO WHICH THE INDIVIDUAL HAS THE INTENTION OF RETURNING AFTER AN ABSENCE.**
- Applicant must own or be buying under recorded contract that provides that the buyer is responsible for the taxes (the latter is a pretty universal principle when a contract is involved).
- **NOTE:** If the applicant is a contract buyer, a recorded memorandum of contract may be used, instead. See SEA 505-2017, Sec. 1.



Deductions – Supplemental Homestead

Supplemental Homestead Deduction

- Applied to the net AV resulting after application of the standard homestead deduction;
- Deduction equals 35% of the net AV (if the net is less than \$600,000) or 25% of the net AV (if the net is greater than \$600,000).



Deductions - Homestead

- In order to claim the Homestead Deduction and the Supplemental Homestead Deduction, the taxpayer must complete Form HC -10 (Claim for Homestead Property Tax Standard/Supplemental Deduction – <https://forms.in.gov/Download.aspx?id=6049>). It is filed at the county auditor's office where the homestead is located.
- Only one individual or married couple may receive a homestead deduction for a particular homestead in a particular year.



Deductions - Homestead

- Note: The Sales Disclosure Form (<https://www.in.gov/dlgf/8516.htm>) may be used to apply for the Homestead Deduction – Part 1, Page 2, Section “F,” #3 (Homestead).
- The Sales Disclosure Form may also be used to apply for the following deductions:
 - Solar Energy Heating/Cooling System
 - Wind Power Device
 - Hydroelectric Power Device
 - Geothermal Energy Heating/Cooling Device



Deductions - Homestead

- 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 does not preclude the taxpayer from receiving a complete deduction on that acre! State law does not require the taxpayer to combine the parcels in order to receive the deduction on the acre.
- Also remember that the property must actually be receiving a homestead deduction to receive the 1% circuit breaker/tax cap!



Deductions - Homestead

- 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 '19 Pay '20, the auditor should not tell the taxpayer to supply proof of eligibility for multiple years unless eligibility is genuinely in dispute for those years.



Deductions - Homestead

- 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 veteran 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!**



Deductions - Homestead

- Please note that if you have two unmarried individuals who own a property and one of them uses it as his homestead, he is not precluded from applying for the homestead deduction even if his co-owner receives a homestead deduction on the property where she lives.
- By way of example, if Bob and Sue are siblings and own House A, which Bob uses as his homestead, Bob can claim a homestead deduction on House A even if Sue claims a homestead deduction on House B, which she uses as her homestead.



Deductions - Homestead

- However, if there are two or more people who own the same house and are each eligible for the homestead deduction, only one homestead deduction can be applied on the house.
- The auditor must record and apply the deduction for the qualifying individual.
- See IC 6-1.1-12-37(b).



Deductions - Homestead

The homestead deduction application must contain “either:

- (A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or
- (B) if the applicant or the applicant's spouse (if any) does not have a Social Security number, any of the following for that individual:
 - (1) The last five (5) digits of the individual's driver's license number.
 - (2) The last five (5) digits of the individual's state identification card number.
 - (3) The last five (5) digits of a preparer tax identification number that is obtained by the individual through the Internal Revenue Service of the United States.
 - (4) If the individual does not have a driver's license or a state identification card, the last five (5) digits of a control number that is on a document issued to the individual by the federal government.”
- “The county auditor may limit the evidence that an individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence.”



Deductions - Homestead

- 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:



Deductions - Homestead

- **IC 6-1.1-12-37(n) (cont'd)**
- 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.
- A statement made under penalty of perjury that the following are true:
 - That the individual and the individual's spouse maintain separate principal places of residence.
 - That neither the individual nor the individual's spouse has an ownership interest in the other's principal place of residence.
 - 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.



Deductions - Homestead

- Continued . . .
- 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.
- HEA 1450 - 2017 removed a provision in law that entitles an individual receiving sole ownership of property in a divorce decree to a carryover of certain deductions. However, HEA 1450 included a new provision addressing changes in marital status...



Deductions - Homestead

- Change in marital status & the homestead deduction - IC 6-1.1-12-17.8(d)
- An unmarried individual who receives a homestead deduction must refile for the deduction if the individual marries and remains eligible for the deduction. The deduction must be filed for on the assessment date following the marriage. Likewise, a married individual receiving the homestead deduction who subsequently divorces must reapply for the deduction for the assessment date following the divorce. However, if the divorcing individual fails to reapply for the deduction, it does not make the former spouse ineligible for the homestead deduction.
- If a person who is receiving the Over 65 deduction for a property and subsequently owns the property with another person jointly or as a tenant in common, assuming he remains eligible, the person must reapply for the deduction for the following assessment date. If an unmarried individual who is receiving an Over 65 credit for a property subsequently marries, assuming he remains eligible for the credit, the individual must reapply for the credit for the following assessment date.



Deductions - Homestead

- 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)



Deductions - Homestead

- IC 6-1.1-36-17
- Notice of ineligibility for standard deduction; collection of adjustments in tax due; non-reverting fund
- (b) If a county auditor makes a determination that property was not eligible for a standard deduction under IC 6-1.1-12-37 in a particular year within three (3) years after the date on which taxes for the particular year are first due, the county auditor may issue a notice of taxes, interest, and penalties due to the owner that improperly received the standard deduction and include a statement that the payment is to be made payable to the county auditor. The additional taxes and civil penalties that result from the removal of the deduction, if any, are imposed for property taxes first due and payable for an assessment date occurring before the earlier of the date of the notation made under subsection (c)(2)(A) or the date a notice of an ineligible homestead lien is recorded under subsection (e)(2) in the office of the county recorder. The notice must require full payment of the amount owed within:
 - (1) one (1) year with no penalties and interest, if:
 - (a) the taxpayer did not comply with the requirement to return the homestead verification form under IC 6-1.1-22-8.1(b)(9) (expired January 1, 2015); and
 - (b) the county auditor allowed the taxpayer to receive the standard deduction in error; or
 - (2) thirty (30) days, if subdivision (1) does not apply.
- With respect to property subject to a determination made under this subsection that is owned by a bona fide purchaser without knowledge of the determination, no lien attaches for any additional taxes and civil penalties that result from the removal of the deduction.



Deductions - Homestead

- IC 6-1.1-36-17
- Notice of ineligibility for standard deduction; collection of adjustments in tax due; non-reverting fund
- What this does:
- Auditors now have discretion to seek the taxes and penalty corresponding to an ineligible homestead deduction. Moreover, if an auditor chooses to seek the taxes and penalty, the auditor may do so only within three years after the date on which taxes for the particular year are first due. An auditor choosing to seek the taxes and penalty must issue a notice of taxes, interest, and penalties due to the owner that improperly received the deduction and include a statement that the payment is to be made payable to the county auditor.



Deductions - Homestead

- IC 6-1.1-36-17
- Notice of ineligibility for standard deduction; collection of adjustments in tax due; non-reverting fund
- By way of example, if John did not return a verification form for his property and the county erroneously left the deduction on the property anyway, John would have one year to repay the taxes if the auditor chooses to seek those taxes from John. However, John would NOT owe the 10% civil penalty. Conversely, if Bob returned a verification form for his property indicating his eligibility for the deduction and it turns out he was not in fact eligible, and if the auditor chooses to seek the taxes and penalty from Bob, Bob would have 30 days to pay the amount due (taxes and 10% civil penalty). What is more difficult to classify under this new amendment is the situation where a person did return a verification form indicating his ineligibility for the deduction, but the county erroneously leaves the deduction in place nonetheless. Under those circumstances, the Department would encourage auditors to use their discretion and NOT seek the taxes and penalty from such a person.
- The Department strongly recommends that auditors and their staff read through IC 6-1.1-36-17 in its entirety to fully understand the process for handling an ineligible homestead deduction.



Deductions - Homestead

- HEA 1450-2017 imposes a requirement for a person receiving or seeking to receive a homestead deduction.
- If the person changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction; or
- is not eligible for a deduction because the person is already receiving
 - a homestead deduction in the person's name as an individual or a spouse; or
 - a deduction under the law of another state equivalent to the homestead deduction in Indiana;
- the person must file a certified statement with the auditor of the county stating that the person is ineligible. A person who fails to file the statement may be liable under IC 6-1.1-36-17 for any additional taxes that would have been due on the property if the person had filed the statement timely.



Deductions

- Changes to the one-year carryover (IC 6-1.1-12-45)
- A person who fails to apply for a deduction or credit by the prescribed deadlines may not apply for the deduction or credit retroactively. This provision is effective July 1, 2017.
- For example, a taxpayer acquired property in August 2017 from a previous owner who had been receiving a homestead deduction on that property. Hence, the taxpayer was entitled to receive the homestead deduction for the January 1, 2018 assessment date, but he would have to apply for the deduction for the January 1, 2019 assessment date. The taxpayer fails to apply by the deadline, filing the application on January 6, 2020. The filing will first apply for the January 1, 2020 assessment date.



Deductions

- Changes to the one-year carryover (IC 6-1.1-12-45)
- For purposes of the mortgage deduction, a taxpayer receiving the deduction will have to reapply for the assessment date following a refinancing.
- Where applying for a deduction requires recording a contract with a county recorder, the taxpayer must record the contract or a memorandum of the contract before or concurrently with the filing of the corresponding deduction application.
- Before a county auditor terminates a deduction, the auditor must notify the person claiming a deduction in writing that the auditor intends to terminate the deduction and specifying the auditor's reasons. The auditor may send the notice by mail or e-mail. This notice is not appealable, but the taxpayer may appeal the auditor's termination of the deduction.



Mortgage Deduction

- In order to claim the Mortgage Deduction, the taxpayer must complete Form 43709 (Statement of Mortgage or Contract Indebtedness for Deduction from Assessed Valuation – <https://forms.in.gov/Download.aspx?id=5071>). It is filed at the county auditor's office where the property is located.



Mortgage Deduction

- Applicants must be residents of the State of Indiana.
- Applications must be filed during the periods specified. Once the application is in effect, no other filing is necessary unless there is a change in status of the property of the applicant that would affect the deduction. Note: A new application must be filed whenever a loan or real estate is refinanced.
- The application may be filed in person or by mail. If mailed, the application must be postmarked before the last day for filing (on or before January 5 of the immediately succeeding calendar year).



Mortgage Deduction

- The deduction equals \$3,000, one-half of the assessed value of the property, or the balance of the mortgage or contract indebtedness as of the assessment date, whichever is least.
- The signature of only one spouse is required for filing when the owner is a husband and wife in a tenancy by the entirety.
- A contract buyer must submit a recorded copy or recorded memorandum of the contract, which contains a legal description with the first statement filed for this deduction.



Mortgage Deduction

- A person is not entitled to this deduction unless the person has a balance on the person's mortgage or contract indebtedness that is recorded in the county recorder's office (including any home equity line of credit that is recorded in the county recorder's office) that is the basis for the deduction.



Over 65 Deduction

- In order to claim the Over 65 Deduction, the taxpayer must complete Form 43708 (Application for Senior Citizen Property Tax Benefits – <https://forms.in.gov/Download.aspx?id=5070>). It is filed at the county auditor's office where the property is located.



Over 65 Deduction

- Applicants must be residents of the State of Indiana.
- Applications must be filed during the periods specified. Once the application is in effect, no other filing is necessary unless there is a change in status of the property of the applicant that would affect the deduction.
- The application may be filed in person or by mail. If mailed, the application must be postmarked before the last day for filing (on or before January 5 of the immediately succeeding calendar year).



Over 65 Deduction

- The applicant and any joint tenants or tenants in common must reside on the premises. Being absent from the property while in a nursing home or hospital will not prevent a person from receiving these benefits.
- The applicant must have been the owner or contract buyer at least one year prior to claiming the deduction. The contract must be recorded and provide that the applicant is to pay the property taxes.



Over 65 Deduction

- On April 29, 2019, Governor Holcomb signed into law Senate Enrolled Act 280-2019 (“SEA 280”). SEA 280 contains several revisions in the law regarding the Over 65 Deduction, the Over 65 Circuit Breaker Credit, and the Disabled Veteran Deduction (<https://www.in.gov/dlgef/files/pdf/190621%20-%20Bennett%20Memo%20-%20Legislation%20Affecting%20Property%20Tax%20Deductions%20and%20Exemptions.pdf>).



Over 65 Deduction

- Adjusted Gross Income & Assessed Value Cap; Deduction Amount
 - Beginning January 1, 2020, the adjusted gross income limitation for purposes of eligibility for the Over 65 Deduction will be increased as follows:
 - For the calendar year preceding by two (2) years the calendar year in which the property taxes are first due and payable:
 - (1) Individuals who filed a single tax return may not have an adjusted gross income (as defined in Section 62 of the Internal Revenue Code) that exceeds \$30,000;



Over 65 Deduction

(2) Individuals who filed a joint income tax return with their spouse may not have a combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) that exceeds \$40,000; and

(3) Individuals who share ownership or are purchasing property under a contract as joint tenants or tenants in common may not have a combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) that exceeds \$40,000.

- SECTION 1 (SEA 280) – IC 6-1.1-12-9



Over 65 Deduction

- Prior to the enactment of SEA 280, the adjusted gross income limitation for purposes of eligibility for the Over 65 Deduction was \$25,000 for all applicants, regardless of the individual's tax filing status. The assessed value cap has also been increased from \$182,430 to \$200,000 for the Over 65 Deduction, and the Over 65 Deduction amount will now be the lessor of: (1) one-half of the assessed value of the property; or (2) \$14,000.
- Section 1 of SEA 280 is effective July 1, 2019.



Over 65 Deduction

- Annual Adjustment & Deduction Eligibility
- In determining the assessed value of the property for purposes of eligibility for the Over 65 Deduction, any increases in the assessed value based solely to an annual adjustment or trending under IC 6-1.1-4-4.5 are not to be considered. While assessed value increases due to annual adjustments will not be considered for purposes eligibility, assessed value increases based on physical inspections completed every four (4) years under cyclical reassessment plan will be considered for purposes of determining eligibility for the Over 65 Deduction.



Over 65 Deduction

- Over 65 Circuit Breaker Credit
- Beginning in 2020, anyone who first applies for the Over 65 Circuit Breaker Credit must have a total assessed value for all real property that is less than \$200,000. However, for any individual who received the Over 65 Circuit Breaker Credit before January 1, 2020, the total assessed value limitation is only applicable to the homestead property. For these taxpayers, the assessed value limitation for homestead property has also been increased from \$160,000 to \$200,000.



Over 65 Deduction

- For individuals initially applying for the Over 65 Circuit Breaker Credit after December 31, 2019, the following requirements must be met in order to qualify for the credit:
 - (1) Individual received the Homestead Standard Deduction in the immediately preceding calendar year;
 - (2) Individual qualifies for the Homestead Standard Deduction in the current calendar year;



Over 65 Deduction

- (3) Individual is or will be sixty-five (65) years of age on or before December 31 of the immediately preceding calendar year;
- (4) Individual had an adjusted gross income for the two (2) immediately preceding calendar years that does not exceed:
 - (a) \$40,000 for joint filers; or
 - (b) \$30,000 for single filers; and
- (5) The assessed value of all real property owned is less than \$200,000.



Over 65 Deduction

- The disqualification of homestead property for individuals first applying for the Over 65 Circuit Breaker Credit after December 31, 2019, will be based on whether the assessed value of all real property owned by the individual meets or exceeds \$200,000. The calculation of the Over 65 Circuit Breaker Credit was not revised by SEA 280, and an example of the calculation is below:



Over 65 Deduction

		18 Pay 19	19 Pay 20	20 Pay 21
Taxpayer #1	Homestead Property Tax Liability minus All Other Deductions and Credits from the AV	\$500	\$600	\$700
	Over 65 Circuit Breaker Credit	N/A	(\$90)	(\$88)
	Homestead Property Tax Liability after Application of Over 65 Circuit Breaker Credit	\$500	\$510	\$612
Taxpayer #2	Total AV of All Real Property	N/A	\$185,000	\$187,000
	Homestead Property Tax Liability minus All Other Deductions and Credits from the AV	N/A	\$2,000	\$2,200
	Over 65 Circuit Breaker Credit	N/A	N/A	(\$160)
	Homestead Property Tax Liability after Application of Over 65 Circuit Breaker Credit	N/A	\$2,000	\$2,040
Taxpayer #3	Total AV of All Real Property	N/A	\$200,000	\$201,000
	Homestead Property Tax Liability minus All Other Deductions and Credits from the AV	N/A	\$2,000	\$2,200
	Over 65 Circuit Breaker Credit	N/A	N/A	N/A
	Homestead Property Tax Liability after Application of Over 65 Circuit Breaker Credit	N/A	\$2,000	\$2,200



Over 65 Deduction

Taxpayer #1

- Maximum Property Tax Liability for 20 Pay 21 is limited to:
 $\$600 \times 1.02 = \612
- Over 65 Circuit Breaker Credit Calculation:
 $(20 \text{ Pay } 21) \text{ Tax Liability} - (20 \text{ Pay } 21) \text{ Maximum Property Tax Liability} = \text{Credit}$
 $\$700 - \$612 = \$88 \text{ (Credit)}$

Taxpayer #2

- Maximum Property Tax Liability for 20 Pay 21 is limited to:
 $\$2,000 \times 1.02 = \$2,040$
- Over 65 Circuit Breaker Credit Calculation:
 $(20 \text{ Pay } 21) \text{ Tax Liability} - (20 \text{ Pay } 21) \text{ Maximum Property Tax Liability} = \text{Credit}$
 $\$2,200 - \$2,040 = \$160 \text{ (Credit)}$

Taxpayer #3

- Ineligible to receive the Over 65 Circuit Breaker Credit because total assessed value of all real property owned is not less than \$200,000



Over 65 Deduction

- To receive the Over 65 Deduction, the applicant can receive no property deductions other than the Mortgage Deduction, the Homestead Standard Deduction and Supplemental Homestead Deductions, and the Fertilizer Storage Deduction.
- For the Over 65 Deduction, the applicant may be a surviving, unremarried spouse, at least sixty (60) years of age on or before December 31 of the year proceeding the year in which the deduction is claimed, provided the decedent was at least 65 years of age at the time of death.



Over 65 Deduction

- The surviving spouse must otherwise satisfy the eligibility requirements for the deduction.



Disabled Person Deduction

- In order to claim the Disabled Person Deduction, the taxpayer must complete Form 43710 (Application for Blind or Disabled Person's Deduction from Assessed Valuation – <https://forms.in.gov/Download.aspx?id=5072>). It is filed at the county auditor's office where the property is located.
- Note: Information contained on the form is confidential pursuant to IC 6-1.1-35-9.



Disabled Person Deduction

- Applicants must be residents of the State of Indiana and provide proof of blindness or disability, as applicable.
- Applications must be filed during the periods specified. Once the application is in effect, no other filing is necessary unless there is a change in status of the property of the applicant that would affect the deduction.
- The application may be filed in person or by mail. If mailed, the application must be postmarked before the last day for filing (on or before January 5 of the immediately succeeding calendar year).



Disabled Person Deduction

- The maximum deduction is \$12,480.
- The applicant's taxable gross income in the preceding calendar year cannot have exceeded \$17,000.
- As proof of blindness, the applicant may provide the Auditor of the County where the property is located with proof of blindness supported by records of the Division of Family Resources or the Division of Disability and Rehabilitative Services, or a written statement of a licensed optometrist or a physician who is licensed by this State and skilled in the diseases of the eye.



Disabled Person Deduction

- As proof of disability, the applicant may provide the Auditor of the County where the property is located with a Federal Social Security Statement of Disability. An individual with a disability not covered under the Federal Social Security Act shall be examined by a physician and the individual's status as an individual with a disability determined by using the same standards as used by the Social Security Administration.



Disabled Person Deduction

- For purposes of this deduction, “blind” has the same meaning as the definition under IC 12-7-2-21(1) and “individual with a disability” means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months.



Disabled Veteran Deduction

- In order to claim the Disabled Veteran Deduction, the taxpayer must complete Form 12682 (Application for Tax Deduction for Disabled Veterans and Surviving Spouses of Certain Veterans – <https://forms.in.gov/Download.aspx?id=4735>). It is filed at the county auditor's office where the property is located.



Disabled Veteran Deduction

A. Surviving Spouse Eligibility

- Beginning with taxes due in 2021, surviving spouses of service members killed while engaged in military duties will be entitled to the same deduction as disabled veterans. Under Section 2 of SEA 280, the service requirements for a surviving spouse's eligibility to receive the Disabled Veteran Deduction will now include:



Disabled Veteran Deduction

- (1) The surviving spouse owns or is buying property on the date that the deduction application is due; and
- (2) The individual's spouse either:
 - (a) Met the following requirements at the time of death:
 - (i) served in the military or naval forces of the United State for at least 90 days;
 - (ii) received an honorable discharge;
 - (iii) either:



Disabled Veteran Deduction

- (a) had a total disability; or
- (b) was at least 62 years old and had a disability of at least 10%; and
- (iv) had a disability that was evidenced by:
 - (a) a pension certificated or an award of compensation issued by the United States Department of Veterans Affairs; or
 - (b) a certificate of eligibility issued by the Indiana Department of Veterans' Affairs; or



Disabled Veteran Deduction

(B) Was killed while engaged in military or naval duties. SECTION 2 (SEA 280) – IC 6-1.1-12-14

- Section 2 of SEA 280 is effective July 1, 2019.



Disabled Veteran Deduction

B. Assessed Value Cap, Deduction Amount, & Annual Adjustments

- For the January 1, 2020 assessment date, the assessed value cap has been increased from \$175,000 to \$200,000. Additionally, the Disabled Veteran Deduction amount has been increased from \$12,480 to \$14,000.



Disabled Veteran Deduction

- Similar to the revisions for the Over 65 Deduction, any increases in the assessed value based solely to an annual adjustment or trending under IC 6-1.1-4-4.5 are not to be considered for purposes of determining eligibility for the Disabled Veteran Deduction. However, any assessed value increases based on physical inspections completed every four (4) years under cyclical reassessment plan will be considered for purposes of determining eligibility for the Disabled Veteran Deduction.



Deduction Reapplication and Homestead Database

A. Deduction Reapplication

- On May 5, 2019, Governor Holcomb signed into law House Enrolled Act 1427-2019 (“HEA 1427”). Section 24 of HEA 1427, effective July 1, 2017 (retroactive), removes the previous requirements under HEA 1450-2017. Under HEA 1450-2017, homeowners were required to reapply for the Homestead Deduction, the Over 65 Deduction, and the Over 65 Circuit Breaker Credit in the case of divorce, marriage, or joint ownership. Section 24 of HEA 1427 removes these reapplication requirements.



Deduction Reapplication and Homestead Database

- If a Homestead Deduction, an Over 65 Deduction, or an Over 65 Circuit Breaker Credit was terminated between July 1, 2017 and April 30, 2019, for failure to reapply for the deduction or credit after a divorce, marriage, or subsequent joint ownership, the county auditor must retroactively reinstate the deduction or credit if the taxpayer provides proof that the taxpayer would have been eligible and is not currently claiming the deduction or credit for any other property.



Deduction Reapplication and Homestead Database

B. Homestead Database Updates

- Section 28 of HEA 1427, effective July 1, 2019, specifies that each county auditor is required to submit updates to the Department of Local Government Finance's ("Department") Homestead Database for deductions applicable to the current tax year on or before March 15 of each year.



Deductions and Exemptions for Improvements

- Section 64 of HEA 1427, effective July 1, 2019, specifies that for purposes of attributing the amount of a property tax deduction or exemption to the gross assessed value of a property:
 - (1) A deduction or exemption that is specific to an improvement must be applied only to the assessed value allocation pertaining to that improvement; and



Deductions and Exemptions for Improvements

(2) To the extent that a deduction or exemption is not specific to an improvement, the deduction or exemption shall be applied in the order that will maximize the benefit of the deduction or exemption to the taxpayer.

- This clarification applies to property tax deductions under IC 6-1.1-12, abatements or economic revitalization area deductions under IC 6-1.1-12.1, investment deductions under IC 6-1.1-12.4, and property tax exemptions under IC 6-1.1-10.



Heritage Barn Deduction

- In order to claim the Heritage Barn Deduction, the taxpayer must complete Form 55706 (Statement of Deduction of Assessed Valuation Attributed to Heritage Barn – <https://forms.in.gov/Download.aspx?id=12121>). It is filed at the county auditor's office where the property is located.
- The application may be filed in person or by mail. If mailed, the application must be postmarked before the last day for filing (on or before January 5 of the immediately succeeding calendar year).



Heritage Barn Deduction

- “Eligible applicant” means (A) an owner of a heritage barn; or (B) a person that is purchasing property, including a heritage barn, under a contract that:
 - (i) gives the person a right to obtain title to the property upon fulfilling the terms of the contract.
 - (ii) does not permit the owner to terminate the contract as long as the person buying the property complies with the terms of the contract;



Heritage Barn Deduction

- (iii) specifies that during the term of the contract the person must pay the property taxes on the property; and
 - (iv) has been recorded with the county recorder.
-
- “Heritage Barn” means a barn that on the assessment date:
 - was constructed before 1950;
 - retains sufficient integrity of design, materials, and construction to clearly identify the building as a barn; and



Heritage Barn Deduction

(C) is a mortise and tenon barn.

- A mortise and tenon barn is a barn built using heavy wooden timbers, joined together with wood-pegged mortise and tenon joinery, that form an exposed structural frame.



Heritage Barn Deduction

- “Barn” means a building (other than a dwelling) that was designed to be used for:
 - (A) housing animals;
 - (B) storing or processing crops;
 - (C) storing and maintaining agricultural equipment; or
 - (D) serving an essential or useful purpose related to agricultural activities conducted on the adjacent land.



Heritage Barn Deduction

- A county fiscal body may adopt an ordinance to require a person receiving this deduction to pay an annual public safety fee for each heritage barn for which the person receives this deduction. The fee may not exceed fifty dollars (\$50). The county auditor must distribute these public safety fees equitably among the police and fire departments in whose territories each heritage barn is located.



Environmental Deductions

- In order to claim the Environmental Deductions, the taxpayer must complete Form 18865 (Statement for Deduction of Assessed Valuation [Attributed to Solar Energy System or Solar, Wind, Geothermal, or Hydroelectric Power Device] – <https://forms.in.gov/Download.aspx?id=4797>). It is filed at the county auditor's office where the property is located.



Environmental Deductions

- The applicant must own or be buying under contract the real property, mobile or manufactured home not assessed as real property or solar power device (or be leasing the real property from the real estate owner and be subject to assessment and property taxation with respect to the solar power device) on the date the application is filed.



Environmental Deductions

- Real property or mobile home not assessed as real property is equipped with a solar energy system, wind power device, hydroelectric power device, or geothermal energy heating or cooling device (and for purposes of the solar power device deduction, the real property is equipped with a solar power device that is assessed as a real property improvement).



Environmental Deductions

- With respect to real property or a solar power device assessed as distributable or personal property, complete and sign application on or before December 31 and file on or before the following January 5, and with respect to a mobile home not assessed as real property, file during the 12 months before March 31 of each year for which the deduction is sought.



Environmental Deductions

- With respect to geothermal and hydroelectric deductions, an application must be filed annually, even for real property. However, a person who receives a solar energy system, wind power device, hydroelectric power device, or geothermal energy heating or cooling device deduction for a particular year and remains eligible for the deduction for the following year is not required to re-apply for the deduction.



Environmental Deductions

- The maximum deduction amount for a solar energy system equals the out-of-pocket expenditures for the components and labor involved in installing the components.
- The maximum deduction amount for solar power device, wind, hydroelectric, and geothermal is the assessed value of the property with the device less the assessed value of the property without the device.



Environmental Deductions

- The maximum deduction amount for a solar power device assessed as distributable or personal property is the assessed value of the device.
- A person may claim these deductions with all other deductions EXCEPT the Over 65 Deduction.



Exemptions

- Article 10, Section 1 of the Indiana Constitution permits the Legislature to exempt certain classes of property from property taxation.
- **IC 6-1.1-10** contains most of the exemptions available, but other exemptions may be found throughout the Code.
- Exemption procedures are found in IC 6-1.1-11. The procedures include application requirements, deadlines, etc.



Exemptions

- An exemption is a privilege which may be waived by a person who owns tangible property that would qualify for the exemption. IC 6-1.1-11-1.
- The burden is on the applicant to show that the predominant part of the property claimed to be exempt is substantially related to the exercise or performance of the applicant's exempt purpose. IC 6-1.1-11-3(d).



Exemptions

- For Pay 2017
 - \$19.7 Billion in Total Real Property Exemptions.
 - \$3 Billion in Total Personal Property Exemptions.



Exemptions

- **Application (Form 136)** must be filed with the county assessor on or before April 1 of the assessment year.
 - e.g. April 1, 2019, for the 2019-pay-2020 property taxes.
 - IC 6-1.1-11-3 (a).
- If the Property Tax Assessment Board of Appeals (“PTABOA”) denies the application, it has no later than April 25 to provide notice to the taxpayer. IC 6-1.1-11-3 (f)
- However, the exemption application is not required if the exempt property is owned by: (1) the United States; (2) the state; (3) an agency of this state; or (4) a political subdivision (as defined in IC 36-1-2-13).
- This exception applies only when the property is used, and, in the case of real property, occupied, by the owner.



What is Form 136?



APPLICATION FOR PROPERTY TAX EXEMPTION

State Form 92B4 (R10 / 11-15)
 Prescribed by Department of Local Government Finance

FORM 136

Assessment date January 1, 20__
County

- INSTRUCTIONS:**
- Two copies of this form must be filed with the County Assessor of the county where the property is located.
 - This application must be filed on or before April 1 of the assessment year and must be re-filed every even year unless the exempt property is owned, occupied, and used for educational, literary, scientific, religious, or charitable purposes and continues to meet the requirements of IC 6-1.1-10-16 or IC 6-1.1-10-21, or is owned by a fraternity or sorority and continues to meet the requirements of IC 6-1.1-10-24. An application should be filed in any year in which an appeal to the Indiana Board of Tax Review or to a court for an exemption determination on the property is pending from any preceding year.
 - There is no filing fee.
 - All questions on page 1, 2, and 3 must be answered. If the question does not apply, write N/A in the space provided. **FAILURE TO PROVIDE THE REQUESTED INFORMATION MAY RESULT IN A DENIAL OF THE APPLICATION FOR EXEMPTION.** See page 5 for additional information.

Name of owner claiming exemption		Type of filing: First-time filing <input type="checkbox"/> Yes <input type="checkbox"/> No Re-filing on same property <input type="checkbox"/> Yes <input type="checkbox"/> No Re-filing with changes <input type="checkbox"/> Yes <input type="checkbox"/> No Describe these changes:
Address (number and street, city, state, and ZIP code)		
Telephone number ()	E-mail address	

Hereby petitions for exemption from taxation of the following described real estate and improvements and / or personal property:

LAND		IMPROVEMENTS (BUILDINGS)	
Legal Description	Assessed Value	Description of Improvements (Name or describe each building)	Assessed Value
	\$	1.	\$
Parcel Number		2.	\$
		3.	\$

Received county assessment Date of assessment Township / County / District located in No. of copies (total number) Map number



Who is Required to File?

- The owner of property who wishes to obtain an exemption must file a certified application (Form 136) in duplicate.



Where Are Applications Filed?

- The certified application (Form 136) must be filed with the county assessor of the county where the property is located.



What if the Ownership or Use Changes?

- If an exempt property is transferred or its use is changed after an assessment date, the transfer or change of use will not affect the property's eligibility for an exemption for that assessment date.



What if the Ownership or Use Changes?

- However, for the following assessment date, the person that obtained the exemption or the current owner of the property (as applicable) is required to file a certified application in duplicate with the county assessor of the county where the property is located.



What if the Ownership or Use Changes?

- In all cases, the person that obtained the exemption or the current owner of the property must notify the county assessor for the county where the tangible property is located of the change in ownership or use in the year that the change occurs.
- This notice is provided under Form 136-CO/U.



What if the Ownership or Use Changes?

- Since IC 6-1.1-11-1.5 requires the exemption to be left in place for an assessment date despite a change in use or ownership following the assessment date, the Form 136-CO/U submission is more about helping the assessor know whether or not to pull the exemption in the original owner's name for the following assessment date.
- The new owner would have to apply for the exemption in its own name for the following assessment date.



What Happens After Form 136 is Filed?

- The application is considered by the county PTABOA. If the application is rejected in whole or in part, notice of that action must be given to the applicant on Form 120.
- Form 120 can be located at:
<https://forms.in.gov/Download.aspx?id=5600>



What Happens After Form 136 is Filed?

- An applicant may appeal to the Indiana Board of Tax Review within forty-five (45) days from the date the notice of rejection (Form 120) is given by the county PTABOA. (IC 6-1.1-11-7)
- The appeal must be filed with the Indiana Board of Tax Review on Form 132 and a copy must be mailed to the county assessor. (IC 6-1.1-15-3)



Exemptions

- IC 6-1.1-11-4(d):
- Ordinarily, the exemption must be re-filed every even year unless:
 - (A) the exempt property is:
 - (1) tangible property used for religious purposes described in IC 6-1.1-10-21;
 - (2) tangible property owned by a church or religious society used for educational purposes described in IC 6-1.1-10-16;
 - (3) other tangible property owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes described in IC 6-1.1-10-16; or
 - (4) other tangible property owned by a fraternity or sorority (as defined in IC 6-1.1-10-24).
 - (B) the exemption application was filed properly at least once for a religious use under IC 6-1.1-10-21, an educational, literary, scientific, religious, or charitable use under IC 6-1.1-10-16, or use by a fraternity or sorority under IC 6-1.1-10-24; and
 - (C) the property continues to meet the requirements for an exemption under IC 6-1.1-10-16, IC 6-1.1-10-21, or IC 6-1.1-10-24.
- NOTE: The exemption application is not required if the exempt property is owned by the United States, the state, an agency of this state, or a political subdivision. However, this is true only when the property is used, and in the case of real property occupied, by the owner!



Exemptions

- An exemption may include real property, personal property, or both.
- An exemption amount may be up to 100%, or a certain percentage, depending on the circumstances.
- The taxpayer must submit evidence that the property qualifies for exemption under a specific statute.
- Failure to provide documentation such as Articles of Incorporation, By-laws, and Income and Expense Statements, may result in the denial of the exemption sought.



Political Subdivision & Municipal Property

IC 6-1.1-10-4

Political subdivision property

- Sec. 4. Except as otherwise provided by law, the property owned by a political subdivision of this state is exempt from property taxation.

IC 6-1.1-10-5

Municipal property

- Sec. 5. (a) Property is exempt from property taxation if it is owned by a city or town and is used to provide a municipal service.
- (b) For purposes of this section, property used to provide a municipal service includes:
 - (1) a public school or library;
 - (2) a municipally owned park, golf course, playground, swimming pool, hospital, waterworks, electric utility, gas or heating plant, sewage treatment or disposal plant, cemetery, auditorium, or gymnasium; and
 - (3) any other municipally owned property, utility, or institution.



Political Subdivision & Municipal Property

- And remember...
 - An exemption application is not required if the exempt property is owned by the United States, the state, an agency of the state, or a political subdivision (which includes municipal property).



Urban Homesteading Property

- IC 6-1.1-10-5.5
- **Urban homesteading property**
- Sec. 5.5. Real property that is held under IC 36-7-17 or IC 36-7-17.1 and that is conveyed by contract with retention of the deed by the city is deemed to be the property of the city held for municipal purposes and is exempt from property taxation.
- IC 36-7-17 – Urban Homesteading
- IC 36-7-17.1 – Alternative Urban Homesteading Program for Qualified Individuals



Municipally Owned Water Company Property

- IC 6-1.1-10-6
- Municipally owned water company property
- Sec. 6. (a) Property which is owned by a domestic corporation of this state is exempt from property taxation if:
 - (1) the corporation owns a water system or waterworks;
 - (2) the corporation is, pursuant to a contract, supplying its entire output of water at wholesale rates to a city or town of this state; and
 - (3) the city or town which receive the water owns at least ninety-five percent (95%) of the corporation's capital stock.



Nonprofit Water & Sewage Disposal Co.

- IC 6-1.1-10-7
- **Nonprofit water companies**
- Sec. 7. Property is exempt from property taxation if it is owned by a non-profit corporation which is engaged in the sale and distribution of water. However, this exemption only applies if the corporation is operated on a not-for-profit basis.

- IC 6-1.1-10-8
- **Nonprofit sewage disposal company**
- Sec. 8. Property is exempt from property taxation if it is owned by a non-profit corporation which is engaged in a sewage disposal service within a rural area of this state. However, this exemption only applies if the corporation is operated on a not-for-profit basis.



Industrial Waste Control Facilities

- IC 6-1.1-10-9
- Industrial waste control facilities
- Sec. 9. (a) For purposes of this section, “industrial waste control facility” means personal property which is:
 - (1) included either as a part of or an adjunct to a privately owned manufacturing or industrial plant or coal mining operation; and
 - (2) used predominantly to:
 - (a) prevent, control, reduce, or eliminate pollution of a stream or a public body of water located within or adjoining this state by treating, pretreating, stabilizing, isolating, collecting, holding, controlling, or disposing of waste or contaminants generated by the plant; or
 - (b) meet state or federal reclamation standards for a coal mining operation.



Industrial Waste Control Facilities

- The term includes personal property that is under construction or in the process of installation and that will be used for the purposes described in this subsection when placed in service. The term also includes spare parts held exclusively for installation in or as part of personal property that qualifies for the exemption under this section.

(b) An industrial waste control facility is exempt from property taxation if it is not used in the production of property for sale.



Miscellaneous Organizations

- IC 6-1.1-10-25
- Miscellaneous organizations
- So long as the property is exclusively used, and in the case of real property actually occupied, for the purposes and objectives of the organization the following are exempt from property taxation:
 - 1) YMCA
 - 2) The Salvation Army, Inc.
 - 3) The Knights of Columbus
 - 4) The Young Men's Hebrew Association
 - 5) The Young Women's Christian Association
 - 6) A chapter or post of Disabled American Veterans of WWI or WWII
 - 7) A chapter or post of the Veterans of Foreign Wars
 - 8) A post of the American Legion
 - 9) A post of the American War Veterans
 - 10) The Boys Scouts of America
 - 11) The Girl Scouts of the U.S.A.



Other Exemptions – IC 6-1.1-10

- Public Airports (IC 6-1.1-10-15)
- Public Libraries (IC 6-1.1-10-19)
- Churches or Religious Societies (IC 6-1.1-10-21)
- Fraternal Benefit Associations (IC 6-1.1-10-23)
- College Fraternities or Sororities (IC 6-1.1-10-24)
- County or District Agricultural Associations (IC 6-1.1-10-26)
- Cemetery Corporations (IC 6-1.1-10-27)
- Free Medical Clinics (IC 6-1.1-10-28)



Exemptions – Outside of IC 6-1.1-10

- **Ports**
- IC 8-10-1-27
- (b) As the operation and maintenance of a port or project by the ports of Indiana will constitute the performance of essential governmental functions, the ports of Indiana shall not be required to pay any taxes or assessments upon any port or project or any property acquired or used by the ports of Indiana...



Exemptions – Outside of IC 6-1.1-10

- **War Monuments**
 - IC 10-18-1-36
 - All property constituting a memorial or used in connection with a memorial.
 - IC 10-18-2-22
 - All property that is: (1) part of a county world war memorial; (2) part of a joint county & city world war memorial; (3) used in connection with a world war memorial; or (4) acquired by a county or city for any purpose authorized under IC 10-18-2.
 - IC 10-18-3-12
 - Property used for the erection, establishment, management, maintenance, repair, improvement, and extension of a county memorial.



Exemptions – Outside of IC 6-1.1-10

- **War Monuments**
 - IC 10-18-4-21
 - All property: (1) constituting a city World War memorial; (2) constituting a joint county and city World War memorial; or (2) used or acquired in connect with joint county and city World War memorial.
 - IC 10-18-7-9
 - Stock and property of a memorial corporation.
 - IC 23-7-7-3
 - Battlegrounds or other historic sites acquired for the purpose of maintaining or improving for historical purposes.



Exemptions – Outside of IC 6-1.1-10

- **Hospital Facilities**
 - IC 5-1-4-26 (Hospital Bonding Authorities)
 - Authorities not required to pay any taxes or assessment upon or in respect of a project or any property acquired or used by authority.
 - IC 16-22-6-34 (County Hospital Building Authority)
 - Property owned by the authority is exempt from taxation.



Exemptions – Outside of IC 6-1.1-10

- **Water Supply District**
 - IC 14-33-20-27
 - Water property and facilities of the district are exempt from taxation by the state.
- **Toll Roads**
 - IC 8-15-2-12
 - Toll road authority not required to pay any taxes or assessments upon any toll road project or any property acquired or used by the authority or upon income derived therefrom.



Exemptions – Outside of IC 6-1.1-10

- **Educational Entities**
 - State Educational Facilities (IC 21-34-8-3)
 - State Educational Facilities, Construction and Operation of Fieldhouses, Gymnasiums, Student Unions, and Halls of Music (IC 21-35-2-19)
 - State Educational Facilities, Certain Support Facilities and Research Facilities (IC 21-35-3-20)



Exemptions – Outside of IC 6-1.1-10

- **Certain Boards, Commissions, & Authorities**
 - Redevelopment Authority (IC 36-7-14-37)
 - Real property acquired.
 - Redevelopment Areas in Marion Co. (IC 36-7-15.1-25)
 - Real property acquired – while owned by district.
 - Urban Mass Transportation Systems (IC 36-9-4-52)
 - Property acquired by a municipality or public transportation corporation under IC 36-9-4.



Exemptions – Outside of IC 6-1.1-10

- **Certain Boards, Commissions, & Authorities**
 - County Building Authority (IC 36-9-13-36)
 - All property and revenues of authority.
 - County Capital Improvement Board (IC 36-10-8-18)
 - All property owned or used and all income and revenues received by the board.
 - Marion Co. Capital Improvement Board (IC 36-10-9-18)
 - All property owned or used and all income and revenues received by the board.



Common Area Exemption

- IC 6-1.1-10-37.5
- Common areas; exemption from property taxation
- Defines “common area” as a parcel of land in a residential development that:
 - (1) is legally reserved for the exclusive use and enjoyment of all lot owners;
 - (2) is owned by the developer, or each lot owner, or a person or entity that holds title to the land in a fiduciary capacity for the benefit of the lot owners;
 - (3) cannot be transferred for value to another party without approval of the lot owners;
 - (4) does not include a Class 2 structure; and
 - (5) is no designed or approved for the construction of a Class 2 structure.



Common Area Exemption

- How is exemption applied?
 - A common area is exempt from property taxation, provided that the common area easement and covenants restricting the use and conveyance of common areas to lot owners are recorded, and notice is provided, to the appropriate county or township assessor.
 - If an assessor determines that the area is not a common area, or determines that the area fails to the requirements under statute, the assessor must send a written statement to the owner not later than 30 days after receiving notice from the owner.



Common Area Exemption

IBTR Decision (Dec. 21, 2018)

North Shore Club Homeowner's Association

- County argued that the parcels were not legally reserved for the exclusive use of the association's member and therefore should not be exempt from taxation.
- Petitioner argued that two parcels under appeal met the definition of "common area" and should be exempt from taxation. Additionally, the county failed to oppose the "common area" designation within 30 days of the Petitioner's notice.
- IBTR held that the Petitioner's Form 130 submissions were adequate to meet the notice requirements, and the Petitioner was entitled to the common area exemption for both parcels.



Exemptions Meet Deductions

- IC 6-1.1-12-46
- For an assessment date in 2011 or later, if:
 1. Real property is not exempt on the assessment date;
 2. The title is transferred before December 31; and
 3. The new owner applies for an exemption for the next assessment date and the PTABOA determines the new owner qualifies for the exemption;
- for the non-exempt assessment date, any deductions and related tax cap credits should be applied to the property such that the exempt property will benefit.



Exemptions Meet Deductions - Example

- John Smith owns a property as of January 1, 2018, and is eligible to receive the homestead and mortgage deductions on this property. The property is not exempt for the January 1, 2018, assessment date. John Smith sells his property to a church on or before December 31, 2018. The church applies for an exemption for the January 1, 2019, assessment date and the PTABOA determines it is exempt for the January 1, 2019, assessment date. The church will receive the benefit of John Smith's deductions for the 2018-pay-2019 property taxes, as well as the property tax cap that would have been applied to the property under John Smith's ownership. The church's exemption will apply for the 2019-pay-2020 property taxes.



Lease of Exempt Property

IC 6-1.1-10-37

Leases of exempt property; effect

- In general:
- If real property that is exempt from taxation is leased to another whose property is not exempt and the leasing of the real property does not make it taxable, the leasehold estate and the appurtenances to the leasehold estate shall be assessed and taxed as if they were real property owned by the lessee or his assignee.
- If personal property that is exempt from taxation is leased to another whose property is not exempt and the leasing of the personal property does not make it taxable, the leased personal property shall be assessed and taxed as if it were personal property owned by the lessee or his assignee.



Leases & Contracts

IC 6-1.1-11-3.8

- The lessor of exempt State or political subdivision property leased to an entity other than a nonprofit entity, governmental entity, or an individual who leases a dwelling unit in a public housing project, specified nursing facility, assisted living facility, or an affordable housing development must notify the county assessor of the county in which the real property is located in writing of:
 - (1) the existence of the lease;
 - (2) the terms of that lease; and
 - (3) the name and address of the lessee.
- Each county assessor must annually notify the DLGF in writing of this information.



Leases & Contracts

IC 6-1.1-10-41

If exempt State or political subdivision real or personal property:

- (1) is being purchased under a contract of sale by another person:
 - (A) whose real or personal property is not exempt from taxation; and
 - (B) who is not engaged in an exempt purpose with the real or personal property; and
- (2) the contract of sale does not make the real or personal property taxable;
 - the real or personal property shall be assessed and taxes as if the real or personal property were owned by the purchaser or the purchaser's assignee.



Leases & Contracts - Examples

- IC 20-47-2-21 (School Corporations & Public Holding Companies)
- Property owned by a lessor corporation entering into a lease with a school corporation and all stock and other securities issued by a lessor corporation are exempt from all taxes – except financial institutions tax (IC 6-5.5)
- IC 20-47-3-15 (School Corporations & Private Holding Companies)
- School buildings leased by a lessor corporation entering into a lease with a school corporation are exempt from all taxes – however, the rental payments to the lessor corporation under terms of a lease are subject to applicable taxes.



Leases & Contracts - Examples

IC 8-1.5-2-31 (Leased Waterworks Facilities)

- All waterworks facilities leased by a lessor contracting with a municipality are exempt from all taxes – however, the rental payments to the lessor under terms of a lease are subject to applicable taxes.

IC 36-1-10-18 (Structures, Systems & Transportation Projects)

- Structures, transportation projects, and systems leased by a lessor contracting with the political subdivision or agency are exempt from all taxes – however, the rental payments to the lessor under terms of a lease are subject to applicable taxes.



Leases & Contracts - Examples

- State Educational Institutions (IC 21-31-4-3)
 - All of the following are exempt from property taxation on any real estate leased under IC 21-31-4:
 - (1) Ball State University;
 - (2) Indiana University;
 - (3) Indiana State University;
 - (4) Purdue University; and
 - (5) University of Southern Indiana.
 - However, the lessee is liable for property taxes on the leased real estate as if it were owned in fee simple, unless the lessee is a student living in facilities owned by the state educational institution.



The Oaken Bucket Case



The Oaken Bucket Case

- *Hamilton County Property Tax Assessment Board of Appeals & Hamilton County Assessor v. Oaken Bucket Partners, LLC, 938 N.E.2d 654 (Ind. 2010)*
- An Indiana Supreme Court decision specifying that counties should take heed of when reviewing property tax exemption applications filed by landlords who rent to religious or charitable organizations.



What's in this Oaken Bucket?

Key Points:

- (1) In order to qualify for an exemption, the landlord must demonstrate a unity of ownership, occupancy, and use. That is, that the property:
 - (a) is owned for exempt purposes,
 - (b) occupied for exempt purposes, and
 - (c) predominantly used for exempt purposes.
 - (d) When unity of ownership, occupancy, and use is lacking, both the landlord and tenant must demonstrate that they possess their own exempt purpose.
- (2) Charging below market rent for part of a building rented to a church or other religious or charitable organization is insufficient, standing alone, to justify a religious or charitable purpose property tax exemption.
- (3) Although the fact that a landlord charges below market rent to a charitable or religious organization may demonstrate some indicia of the landlord's beneficent motives, more is required to show the landlord has its own exempt purpose.



What's in this Oaken Bucket?

- In essence, charging below market rent to an exempt entity does not, without more, establish an exempt purpose on the part of the property owner.



2019 Legislation



2019 Legislation

<https://www.in.gov/dlgf/files/pdf/190621%20-%20Bennett%20Memo%20-%20Legislation%20Affecting%20Property%20Tax%20Deductions%20and%20Exemptions.pdf>

- III. Repeal of Certain Tax Incentives
- On May 5, 2019, Governor Holcomb signed into law Senate Enrolled Act 171-2019 (“SEA 171”). SEA 171 repeals the following tax incentives:
 - (1) Veterans’ Mortgage Deduction (IC 6-1.1-12-17.5)
 - (2) Coal Conversion System Deduction (IC 6-1.1-12-31)
 - (3) Building using Coal Combustion Products Deduction (IC 6-1.1-12-34.5)
 - (4) Aircraft Deduction (IC 6-1.1-12.2)
 - (5) Intrastate Aircraft Deduction (IC 6-1.1-12.3)



2019 Legislation

III. Repeal of Certain Tax Incentives con't.

6. Deduction for Purchases of Investment Property by Manufacturers of Recycled Components (IC 6-1.1-44)

7. Hoosier Alternative Fuel Vehicle Manufacturer Tax Credit (IC 6-3.1-31.9)

8. Local Income Tax Option Hiring Incentive Credit (IC 6-3.5-9)

- All sections repealing the above tax incentives are effective January 1, 2020
– except for the section that repeals the Veterans' Mortgage Deduction, which is effective July 1, 2019.



2019 Legislation

IV. Mobile Home Deductions

SEA 171 also specifies that the filing deadline for property tax deductions applicable to mobile homes and manufactured homes that are not assessed as real property is the same as the filing deadline for property tax deductions applicable to real property. Specifically, this revision would be applicable to the following deductions:

- (1) Mortgage Deduction (IC 6-1.1-12-2)
- (2) Over 65 Deduction (IC 6-1.1-12-10.1)
- (3) Blind or Disabled Deduction (IC 6-1.1-12-12)
- (4) Disabled Veteran Deduction (IC 6-1.1-12-15)
- (5) Surviving Spouse of a World War I Veteran Deduction (IC 6-1.1-12-17)



2019 Legislation

IV. Mobile Home Deductions con't.

- (6) Solar Energy Heating or Cooling System Deduction (IC 6-1.1-12-27.1)
 - (7) Wind Power Device Deduction (IC 6-1.1-12-30)
 - (8) Hydroelectric Power or Geothermal Energy Deduction (IC 6-1.1-12-35.5)
 - (9) Homestead Standard Deduction (IC 6-1.1-12-37)
- All sections revising the filing deadline for mobile home or manufactured home deductions are effective July 1, 2019 – except for the section related to the Hydroelectric Power or Geothermal Energy Deduction, which is effective January 1, 2020.



2019 Legislation

V. Deduction Reapplication & Homestead Database

- Deduction Reapplication
 - On May 5, 2019, Governor Holcomb signed into law House Enrolled Act 1427-2019 (“HEA 1427”). Section 24 of HEA 1427, effective July 1, 2017 (retroactive), removes the previous requirements under HEA 1450-2017. Under HEA 1450-2017, homeowners were required to reapply for the Homestead Deduction, the Over 65 Deduction, and the Over 65 Circuit Breaker Credit in the case of divorce, marriage, or joint ownership. Section 24 of HEA 1427 removes these reapplication requirements.



2019 Legislation

V. Deduction Reapplication & Homestead Database con't.

- If a Homestead Deduction, an Over 65 Deduction, or an Over 65 Circuit Breaker Credit was terminated between July 1, 2017 and April 30, 2019, for failure to reapply for the deduction or credit after a divorce, marriage, or subsequent joint ownership, the county auditor must retroactively reinstate the deduction or credit if the taxpayer provides proof that the taxpayer would have been eligible and is not currently claiming the deduction or credit for any other property.

B. Homestead Database Updates

- Section 28 of HEA 1427, effective July 1, 2019, specifies that each county auditor is required to submit updates to the Department of Local Government Finance's ("Department") Homestead Database for deductions applicable to the current tax year on or before March 15 of each year.



2019 Legislation

VI. Deductions & Exemptions for Improvements

- Section 64 of HEA 1427, effective July 1, 2019, specifies that for purposes of attributing the amount of a property tax deduction or exemption to the gross assessed value of a property:
 - (1) A deduction or exemption that is specific to an improvement must be applied only to the assessed value allocation pertaining to that improvement; and
 - (2) To the extent that a deduction or exemption is not specific to an improvement, the deduction or exemption shall be applied in the order that will maximize the benefit of the deduction or exemption to the taxpayer.
- This clarification applies to property tax deductions under IC 6-1.1-12, abatements or economic revitalization area deductions under IC 6-1.1-12.1, investment deductions under IC 6-1.1-12.4, and property tax exemptions under IC 6-1.1-10.



2019 Legislation

- VII. Exemption Extension
- Section 17 of HEA 1427, effective May 5, 2019, provides that a taxpayer seeking a property tax exemption for property used for an educational, religious, or charitable purpose under IC 6-1.1-10-16 may file an exemption application up to thirty (30) days following the statutory deadline (April 1), if the taxpayer pays a late filing fee. The late filing fee must equal the lesser of:
 - (1) Twenty-five dollars (\$25) for each day after the deadline; or
 - (2) Two hundred fifty dollars (\$250).



2019 Legislation

VIII. Business Personal Property Exemption

A. Exemption Eligibility

On May 6, 2019, Governor Holcomb signed into law Senate Enrolled Act 233-2019 (“SEA 233”), which increases the acquisition cost threshold for the business personal property tax exemption from \$20,000 to \$40,000. Additionally, SEA 233 requires assessing officials to provide notification, not later than 30 days prior to the filing date, to each person whose personal property is subject to assessment. This notification must include: (1) the date that personal property tax returns are due; (2) the telephone number and email address of the assessor’s office; and (3) information on how to obtain the personal property tax forms.



2019 Legislation

- Currently, assessing officials are required to provide a personal property tax return to taxpayers who own personal property that is subject to assessment. This legislation would, instead, require assessing officials to provide to notification by mail or e-mail to those taxpayers.
- Beginning January 1, 2020, personal property tax returns for taxpayers that are eligible for the exemption must include the following information:
 - (1) A declaration that the taxpayer's business personal property in the county is exempt from property taxation;
 - (2) Whether the taxpayer's business personal property within the county is in one (1) location or multiple locations; and
 - (3) An address for the location of the property.



2019 Legislation

- If the business personal property is in multiple locations within a county, taxpayers must provide an address for the location where the sum of acquisition costs for business personal property is the greatest. However, if two (2) or more addresses contain the greatest equivalent sum of acquisition costs for the property within a given county, the taxpayer must choose only (1) address to list on the return.

B. Late Filing Penalty

- Section 66 of HEA 1427, effective January 1, 2020, specifies that the \$25 late filing penalty must be included on the property tax bill associated with the tax district in which the majority value of the taxpayer's business personal property within the county is located. The determination of which taxing district the penalty will be applied must be made by the county assessor.



2019 Legislation

C. Local Service Fee

- Section 3 of SEA 233 repeals IC 6-1.1-3-7.3, and counties will no longer be permitted to impose a fee for each informational return filed regarding exempt business personal property. Section 3 is effective July 1, 2019, and will be applicable for personal property returns due May 15, 2020.



2019 Legislation

IX. Data Centers Tax Exemption

- On May 5, 2019, Governor Holcomb signed into law House Enrolled Act 1405-2019 (“HEA 1405”), which modifies the statute regarding property tax exemptions for enterprise information technology equipment or data centers. For the definition of what qualifies as an “eligible business”, HEA 1405 increases the aggregate investment threshold from \$10,000,000 to \$25,000,000 in real and personal property at the facility or data center. This means that beginning July 1, 2019, a business is eligible for the exemption if it meets each of the following prerequisites:
 - (1) The entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities;
 - (2) The entity’s qualified property is located in Indiana;



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(3) The business invests, in the aggregate, at least \$25,000,000 in real and personal property in Indiana after June 30, 2012; and
(4) The average employee wage of the business is at least 125% of the county average wage for the county in which the business operates.

- HEA 1405 also removes the distinction of enterprise information technology equipment in a “high technology district,” including the previous requirement that a designating body must adopt a declaratory resolution specifying that a certain area qualified as a high technology district. Beginning July 1, 2019, a county or municipal fiscal body may enter into an agreement with an eligible business to exempt qualified property from property taxation.



2019 Legislation

X. Public Health Benefit Corporation Exemption

- On April 24, 2019, Governor Holcomb signed into law House Enrolled Act 1345-2019 (“HEA 1345”), which establishes a property tax exemption for public health benefit corporation property. For assessment dates occurring after December 31, 2016, certain property owned by an Indiana nonprofit public benefit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code is exemption if:
 - (1) The property is used in the operation of a nonprofit health, fitness, aquatics, and community center;
 - (2) The acquisition and development of the property is funded, in part, under the regional cities initiative of the Indiana Economic Development Corporation under IC 5-28-38; and



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(3) Not more than four (4) years after the property is purchase, and for each year after the four (4) year period, the owner demonstrates substantial progress towards the use of the property as a nonprofit health, fitness, aquatics, and community center.

- This exemption also includes any part of the property that is leased or licensed by the owner to another nonprofit or municipal entity for use as a nonprofit health, fitness, aquatics, or community center, and property that is used for storage and parking. In order to establish that substantial progress has been made on the property, the owner must provide documentation of certain factors, including:
 - (1) Organization of and activity by a building committee or other oversight group.
 - (2) Completion and filing of building plans with the appropriate local government authority.



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- (3) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe actual construction can and will begin within four (4) years.
 - (4) The breaking of ground and the beginning of actual construction.
 - (5) Any other factor that would lead a reasonable individual to believe that construction of the improvement is an active plan and that the improvement is capable of being completed within eight (8) years considering the circumstances of the owner.
- If any property that is deemed to be exemption from property taxation has paid property taxes for the 2017 and 2018 assessment date, the owner of the exempt property is entitled to a refund without interest. Any claim for a refund of the amounts previously paid must be filed by the owner before September 1, 2019.



Frequently Asked Questions



Exemptions - FAQs

- *Question: Why are some properties automatically exempt from taxation, and why do some have to fill out Form 136?*
- Answer: Properties that are exempt by law, such as those owned by federal, state, or local units of government are exempt and do not require an exemption application. Other entities, that are exempt by filing (e.g., those that are owned, used, or occupied for educational, literary, scientific, religious or charitable purposes) must file and receive approval for their exemption application. IC 6-1.1-11-4.



Exemptions - FAQs

- *Question: I have a taxpayer that is going to lease a portion of an office building to an Indiana state entity which would make this portion of his office building exempt. My question is how often does he need to file for exempt status? I cannot seem to find where it states how often someone has to file if a portion of their property is leased to a state entity.*
- **Answer:** Assuming the property you referenced met the provisions of IC 6-1.1-10-2, the exemption application must be filed every even year, unless the provisions of IC 6-1.1-11-4 (d)(1-3) apply.



Exemptions - FAQs

- *Question: Habitat for Humanity is selling a property on contract, do we remove the exempt status?*
- Answer: In 2016, the General Assembly passed legislation impacting organizations like Habitat for Humanity ([http://in.gov/dlgf/files/pdf/160330 - Schaafsma Memo - 2016 Legislative Changes Affecting Property Tax Exemptions.pdf](http://in.gov/dlgf/files/pdf/160330_Schaafsma_Memo_2016_Legislative_Changes_Affecting_Property_Tax_Exemptions.pdf)). Article IV (“Sunset of and Restriction of Certain Exemptions”) of the memo explains the changes.



Exemptions - FAQs

- *Question: I have a church that has farm ground and the farmer gives a donation for the use of the farm ground (they do not charge him rent), does the church get exempt status on the farm ground?*
- Answer: If the land is owned by the church, and it is being used for an exempt purpose (or held for the purpose of erecting a building – see IC 6-1.1-10-16 (d)), then I believe it would be exempt. If the land/owner/use did not meet that purpose, then I do not believe it would be exempt. Of course, it would be up to the taxpayer (church) to file an exemption proving the property is exempt, and the PTABOA to make the ultimate decision.



Exemptions - FAQs

- *Question: Does a Form 136 exemption application have to be approved in an open PTABOA meeting? Normally we send the applications to PTABOA members via e-mail to examine and make an informed decision and then hold a meeting to officially approve/deny the applications. We had one that wasn't timely filed and it is not cost-effective to hold a meeting (for just one point of business) in time to properly notify the taxpayer of a decision.*
- Answer: They would most likely need to meet in an open session; however, you should check with your county attorney for specific guidance/advice.



Exemptions - FAQs

- *Question: Is there a waiver of some sort if a form is not timely filed?*
- Answer: No. If a Exemption Application is not timely filed, a waiver may not be granted.



Exemptions - FAQs

- *Question: A property is owned by a school and it is going to be sold around April 1, 2018. The buyer is planning on filing for tax exemptions in 2019 due to buying the property after the deadline for filing exemptions. What year would the tax exemption fall off for the school.*
- Answer: If an exempt property (as of the January 1, 2018 assessment date) is sold in April 2018, the exemption would remain in place for the 2018 pay 2019 assessment/tax cycle. The current owner should notify your office of the change in ownership (<https://forms.in.gov/Download.aspx?id=7564>). The new owner could apply by April 1, 2019 for an exemption for the January 1, 2019 assessment date. If the exemption was approved, it would be applicable for the January 1, 2019 assessment date.



Exemptions - FAQs

- *Question: I received a letter from an attorney requesting a copy of Form 136 that was filed in 2013. Is this a confidential form or can I give it to him?*
- Answer: You should contact the State's Public Access Counselor for an official opinion. However, the Form 136 per se is disclosable, but the Public Access Counselor could contemplate some instances of the form containing information related to earnings, income, profits, losses, or expenditures contained in the Form 136 or its attachments, which could be confidential. But only the confidential information (if any) would have to be redacted.



Exemptions - FAQs

- *Question: By the taxpayer check marking the charitable box it has the IC 6-1.1-10-16 beside it. Wouldn't that mean that is the Code they fall under? Same with them check marking the educational & religious box. Also is vacant land to be considered exempt even if they don't plan on building on it but they have picnics, etc. on it? In the case of a church.*
- **Answer: Yes, if the taxpayer cited/checked IC 6-1.1-10-16, that would be the reason they are claiming their tax exemption. As far as vacant land, please see IC 6-1.1-10-16 (c), (d), and (i); IC 6-1.1-10-21 (b); and IC 6-1.1-10-24 (a). If it meets the criteria, it would be exempt.**



Exemptions - FAQs

- *Question: I need some guidance on the 136 and the 136 CO/U. If someone is already exempt and builds an addition onto their church or adds a utility shed, which form do we request. I have two different opinions about this and want to do it correctly. Since the deadline is coming, please clarify this for me.*
- Answer: In the situation you described a Form 136 should be used. Typically the 136 CO/U would be used in situation where there is a change of ownership or a use change on property already exempted.



Questions?



Thank you!

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