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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO: Assessing Officials & County Auditors**

**FROM: Wes Bennett, Commissioner**

**RE: Legislative Changes Concerning Credits, Deductions & Exemptions**

**DATE: June 14, 2022**

The Department of Local Government Finance (“Department”) issues this memorandum to inform the public of legislative changes in matters related to property tax credits, deductions, and exemptions. Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law.

## **CREDITS & DEDUCTIONS**

### **I. Mortgage Deduction**

On March 21, 2022, Governor Eric J. Holcomb signed into law House Enrolled Act 1260-2022 (“HEA 1260”). Section 12 of HEA 1260 repeals the mortgage deduction in its entirety, effective January 1, 2023.<sup>1</sup> This means that beginning January 1, 2023, individuals will no longer be able to apply for this property tax deduction, and county auditors will no longer apply the mortgage deduction to property tax bills beginning with the 2023 Pay 2024 cycle. Instead, the General Assembly has added \$3,000 to the homestead deduction, effective for assessment dates after December 31, 2022.<sup>2</sup> In other words, the homestead deduction amount for 2023 Pay 2024 will be the lesser of:

- (1) Sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property;
- or
- (2) \$48,000.

The supplemental homestead deduction remains the same in Ind. Code § 6-1.1-12-37.5.

### ***Examples Regarding Repeal of the Mortgage Deduction***

- 1. The Smiths buy a home that meets the qualifications of a homestead. They closed on the property, on April 15, 2022, after HEA 1260 was signed into law. They have a mortgage on the property and apply for the mortgage deduction.**

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<sup>1</sup> See SEC. 12 of HEA 1260; Ind. Code § 6-1.1-12-1.

<sup>2</sup> See SEC. 22 of HEA 1260; Ind. Code § 6-1.1-12-37.

If the Smiths apply for the mortgage deduction on or before December 31, 2022, they will be eligible for a \$3,000 mortgage deduction on their 2023 tax bill. Beginning with their 2024 tax bill, the Smiths will receive an additional \$3,000 for a homestead deduction totaling up to \$48,000, but the Smiths will no longer receive the mortgage deduction.

- 2. The O'Malleys bought a home on April 1, 2022. They have a mortgage on the property, but the previous owners did not have a mortgage on the property. At the time of closing the O'Malleys applied for the homestead deduction, but they forgot to apply for the mortgage deduction until January 1, 2023.**

Although the O'Malleys had a mortgage on the property before the December 31 deduction application deadline, they will not be eligible to receive the mortgage deduction. With the repeal of the mortgage deduction statute going into effect on January 1, 2023, taxpayers must apply for the mortgage deduction by December 31, 2022, in order for the deduction to be included on the 2022 Pay 2023 tax bills. The 2023 tax bill cycle will be the last time the mortgage deduction is available. Instead, the O'Malleys will realize an increase of \$3,000 for their homestead deduction for a total of \$48,000.

- 3. Sally bought a home in 2021 that qualifies for a homestead deduction. She paid for the property in cash and had no mortgage, thus she never received the mortgage deduction. She timely filed for the homestead deduction when she bought the house and received the deduction of \$45,000 for her 2022 assessment date.**

For property tax bills issued in 2024, Sally will receive an additional \$3,000 on her homestead deduction, for a total of \$48,000.

- 4. The county auditor carefully and dutifully applies all deductions as required by law. She continues to receive mortgage deduction application forms after the new law repealing mortgage deductions goes into effect on January 1, 2023, and will no longer be available for tax bills beginning in 2024. She knows that the law has changed, and mortgage deductions will no longer be applied after the 2022 Pay 2023 cycle. What should or could she do?**

The county auditor would have the following options available:

- (1) Keep the filed mortgage deduction forms in accordance with public records statutes (required by law) and send a letter notifying the taxpayer applicant of the change in law, noting that the property owner will receive an additional \$3,000 for the homestead if they qualify; or
- (2) Publish a letter in the county newspaper to educate taxpayers about the change in law and send no letter; or
- (3) Do nothing and just apply the additional \$3,000 to the homestead deduction for the 2024 tax bills, and make sure not to apply any mortgage deduction up to \$3,000. Do not apply any deduction for a mortgage in any amount.

## **II. Homestead Deduction**

If a person timely files an application for the homestead deduction and meets eligibility requirements, the legislature added \$3,000 to the amount. Now, instead of a \$45,000 for a homestead deduction, owners will receive \$48,000. Taxpayers will see this change in their January 2023 assessments. As noted above, the supplemental homestead remains the same as in current law.

### ***Examples Regarding Homestead Deduction Increase***

- 1. Max bought a home in February of 2022, before the legislation granting an additional \$3,000 for the homestead, was signed into law. He timely filed for the homestead and met its requirements.**

In January of 2023, Max's assessment should reflect a homestead deduction of \$48,000, which would be evidenced on Max's 2024 tax bill.

- 2. Adam and Molly bought a home in August of 2022 after the legislation was signed into law. They timely filed an application for a homestead and qualified for it.**

Adam and Molly will realize the additional \$3,000 deduction on the homestead deduction on their January 1, 2023, assessment date, reflecting \$48,000 on their 2024 tax bill.

## **III. Disabled Veteran Deduction & Over 65 Deduction and Circuit Breaker Credit**

### ***Eligibility Clarification***

During the 2019 Legislative Session, Senate Enrolled Act 280-2019 ("SEA 280") contained several revisions for the Over 65 Deduction, the Over 65 Circuit Breaker Credit, and the Disabled Veteran Deduction. For each of these tax incentives, there was an adjustment to the eligibility criteria and there was also a provision that specified that any increases in the assessed value of a property based solely on an annual adjustment or trending under Ind. Code § 6-1.1-4-4.5 were not to be considered when determining eligibility. In other words, even though annual adjustments to property value could not make an individual ineligible for any of these tax incentives, an increase in the assessed value based on physical inspections completed every four (4) years under cyclical reassessment could be considered when determining the eligibility of a taxpayer for the Over 65 Deduction, the Over 65 Circuit Breaker Credit, and the Disabled Veteran Deduction.

The General Assembly provided additional clarification during the 2020 Legislative Session with House Enrolled Act 1113-2020 ("HEA 1113-2020"), which specified that for the purpose of determining the assessed value of the real property for an individual who has received the Over 65 Deduction, the Disabled Veteran Deduction or the Over 65 Circuit Breaker Credit, any subsequent increase in assessed value should not be considered unless the increase is attributable to *physical improvements* to the property.

In addition to these changes, the General Assembly provided further clarification for these property tax incentives during the 2022 Legislative Session. Section 19, 20, and 42 of HEA 1260 specify that an individual will remain eligible for the Over 65 Deduction, the Disabled Veteran Deduction, or the Over 65 Circuit Breaker Credit, as long as the increase in assessed value is not

attributable to a *substantial renovation or new improvement* to the property. The amended language also provides that an individual who received the deduction or credit in a *previous* year may be eligible, even if the assessed value of the qualifying property has increased above the assessed value limitations provided in statute. Additionally, the legislation specifies that assessors will be required to provide a report to the county auditor of any substantial renovation or new improvements to the property receiving the Over 65 Deduction, the Disabled Veteran Deduction, or the Over 65 Circuit Breaker Credit.

**IC 6-1.1-12-9  
Over 65 Deduction**

...

(i) For purposes of determining the assessed value of the real property, mobile home, or manufactured home under subsection (a)(6) for an individual who has received a deduction under this section in a ~~particular~~ **previous** year, increases in assessed value that occur after the later of:

(1) December 31, 2019; or

(2) the first year that the individual has received the deduction;

are not considered unless the increase in assessed value is attributable to ~~physical improvements to the property.~~ **substantial renovation or new improvements. Where there is an increase in assessed value for purposes of the deduction under this section, the assessor shall provide a report to the county auditor describing the substantial renovation or new improvements, if any, that were made to the property prior to the increase in assessed value.**

**IC 6-1.1-12-14  
Disabled Veteran Deduction**

...

(f) For purposes of determining the assessed value of the real property, mobile home, or manufactured home under subsection (d) for an individual who has received a deduction under this section in a ~~particular~~ **previous** year, increases in assessed value that occur after the later of:

(1) December 31, 2019; or

(2) the first year that the individual has received the deduction;

are not considered unless the increase in assessed value is attributable to ~~physical improvements to the property.~~ **substantial renovation or new improvements. Where there is an increase in assessed value for purposes of the deduction under this section, the assessor shall provide a report to the county auditor describing the substantial renovation or new improvements, if any, that were made to the property prior to the increase in assessed value.**

**IC 6-1.1-20.6-8.5  
Over 65 Circuit Breaker Credit**

...

(g) For purposes of determining the:

- (1) assessed value of the homestead on the assessment date for which property taxes are imposed under subsection (b)(1); or
- (2) assessed value of the individual's Indiana real property under subsection (b)(2);

for an individual who has received a credit under this section in a ~~particular~~ **previous** year, increases in assessed value that occur after the later of December 31, 2019, or the first year that the individual has received the credit are not considered unless the increase in assessed value is attributable to ~~physical improvements to the property.~~ **substantial renovation or new improvements.** **Where there is an increase in assessed value for purposes of the credit under this section, the assessor shall provide a report to the county auditor describing the substantial renovation or new improvements, if any, that were made to the property prior to the increase in assessed value.**

These revisions to the Over 65 Deduction, the Disabled Veteran Deduction, and the Over 65 Circuit Breaker Credit statutes apply to taxable years beginning after December 31, 2022.

#### *Over 65 Deduction Assessed Value Limitations*

Additionally, Section 19 of HEA 1260 increased the assessed value limitations for the Over 65 Deduction from \$200,000 to \$240,000. The increase in the assessed value limitations will apply to taxable years beginning after December 31, 2022 – i.e., 2023 Pay 2024.

### EXEMPTIONS

#### **I. Business Personal Property & Places of Worship**

Section 6 of HEA 1260 amends Ind. Code § 6-1.1-3-7 regarding the filing requirements for business personal property tax returns. With this new language churches and religious societies that have filed business personal property tax returns for five (5) years and who were exempt from taxes in those five (5) years will not have to file business personal property returns going forward unless either of the following occurs:

- (1) There is a change in ownership; or
- (2) There is any other change that results in the personal property no longer being eligible for an exemption and the church or religious society would otherwise be liable for property taxes imposed.

Section 6 of HEA 1260 is effective January 1, 2023, and will therefore first apply to business personal property tax returns that would be filed by May 15, 2023.

#### **II. Infrastructure Development Zones**

Section 28 of HEA 1260 amends Ind. Code § 6-1.1-12.5-1 to define a “provider of broadband service or advanced services” for purposes of determining eligible infrastructure under Ind. Code 6-1.1-12.5. The term “provider of broadband service or advanced services” includes a telephone company or cable company as defined in Ind. Code § 6-1.1-8-2(15). Currently, Ind. Code § 6-

1.1-8-2(15) defines “telephone, telegraph, or cable company” which means a company which is principally engaged in the business of communicating by electrical transmission.

Section 10 of HEA 1260 amends Ind. Code § 6-1.1-8-27 affecting infrastructure development zones established under Ind. Code § 6-1.1-12.5-5, as follows:

- The county assessor may exempt designated infrastructure development broadband assets. This includes broadband infrastructure assets located in a designated infrastructure development zone of a centrally assessed telephone company or cable company. “Centrally assessed” is not defined, though it is likely referring to properties assessed by the Department and that is not locally assessed.
- A centrally assessed telephone company or car company that makes eligible infrastructure investments in a designated infrastructure development zone in facilities and technologies is exempt from property taxes if they are used:
  - in the deployment and transmission of broadband service;
  - in advanced services that increase the availability of broadband service;
  - in advanced service; or
  - under any combination of the above.
- After the Department certifies the assessed values for the property of a centrally assessed telephone company or cable company to the county assessor and county auditor, the centrally assessed telephone company or cable company shall produce and submit an annual report to the county assessor. This report must be submitted no later than July 1 of each assessment year. The report must include sufficient information necessary for the county assessor or county auditor to identify the broadband infrastructure investments that are eligible to be exempt from property taxes.
- The county auditor shall reduce the Department’s certified assessed values for each applicable state-assessed personal property record that qualifies for the exemption prior to certifying net assessed values. This includes the certified assessed values for the centrally assessed telephone company or cable company.

Section 10 of HEA 1260 is effective July 1, 2022.

### **III. PTABOAs & Exemptions**

Section 11 of HEA 1260 amends Ind. Code § 6-1.1-11-4 clarifies that the property tax assessment board of appeals (“PTABOA”) may review, adjust, and retract property tax exemptions.

#### **IC 6-1.1-11-4**

**Exemption application not required in certain cases; transfer or change in use of property after assessment date**

...

**(g) This section shall not be construed to limit the authority of the county property tax assessment board of appeals to review the ongoing eligibility of a property for an exemption. A county property tax assessment board of appeals shall disapprove an exemption application in any year following the initial approval of the application if the property is not eligible for an exemption.**

The new language above specifies that the PTABOA may review the ongoing eligibility of an exemption and the board may disapprove any exemption after the year it is approved if they have received evidence that the taxpayer is no longer eligible for the exemption.

**IV. Business Personal Property & Exempt Returns**

On March 15, 2022, Governor Eric J. Holcomb signed into law Senate Enrolled Act 382-2022 (“SEA 382”). Section 11 of SEA 382 amends Ind. Code § 6-1.1-3-7.2 regarding exemptions for certain business personal property with acquisition costs that are less than \$80,000. Under current law, taxpayers who have less than \$80,000 of depreciable asset acquisition costs in a county are exempt from personal property tax; however, these taxpayers are still required to file a business personal property return claiming the exemption. With the new language in Section 11 of SEA 382, a taxpayer who has filed a return claiming the exemption for a year and who continues to qualify for the exemption will not have to file a return to claim the exemption in subsequent years.

**IC 6-1.1-3-7.2**

**Exemption for certain business personal property with acquisition cost less than \$80,000; information required on return**

...

**(e) Subject to subsection (f)**, a taxpayer that is eligible for the exemption under this section for an assessment date shall include the following information on the taxpayer's personal property tax return:

- (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.
- (3) An address for the location of the property.

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

**(f) Beginning after December 31, 2022, a taxpayer that has included the information required under subsection (e) on the taxpayer's personal**

**property tax return to claim the exemption under this section is not required to file a personal property return for the taxpayer's business personal property for an assessment date that occurs after the assessment date for which the information is first provided under subsection (e), unless or until the taxpayer no longer qualifies for the exemption under subsection (d) for a subsequent assessment date.**

Section 11 of SEA 382 is effective January 1, 2023, and will therefore first apply to business personal property tax returns that would be filed by May 15, 2023.

### **V. Innovation Development Districts & Exemptions**

On March 15, 2022, Governor Eric J. Holcomb signed into law Senate Enrolled Act 361-2022 ("SEA 361"). Within SEA 361, the General Assembly created a new concept seeking to attract business to Indiana through the establishment of an innovation development district. These districts may be established by a local executive or the Indiana Economic Development Corporation ("IEDC") as an allocation area for property tax, income tax, and gross retail tax. Included in this economic development tool, are property tax exemptions. When a local executive or the IEDC designates a geographic area by identifying specific parcels, they may also designate new commercial or industrial real property improvements and new personal property as exempt from property taxation. However, the new language under Ind. Code § 36-7-32.5-15(c) specifies that the local executive and the IEDC may not exempt property from taxation after any bonds have been issued by the Indiana Finance Authority under Ind. Code § 5-1.2-4-4(a)(2) that are payable from the revenues deposited in a local innovation development district fund.

If a property has been designated as exempt, the property's assessed value will not be added to the tax base of the taxing unit, nor will it be allocated to the innovation development district. Section 28 of SEA 361 specifies that the IEDC shall cooperate with local units in establishing innovation development districts, and notice must be provided to the county assessor and the county auditor for any exemption provided within the district.

For additional information related to SEA 361, please refer to the Department's memo "Legislation Affecting Economic Development Matters".

### **VI. Public-Private Agreements & Property Tax Exemptions**

On March 10, 2022, Governor Eric J. Holcomb signed into law Senate Enrolled Act 166-2022 ("SEA 166"). Section 10 of SEA 166 specifies that tangible property (including without limitation, land, personal property, real property, and improvement to land) is exempt from property taxation if the property is used as a part of or is incorporated into a transportation facility under a public-private agreement executed in accordance with Ind. Code § 5-23-8-1(b) or a development agreement executed in accordance with Ind. Code § 5-23-8-1(b).



Section 7 of SEA 166 defines “transportation facility” to include any new or existing road, highway, toll highway, bridge, tunnel, railroad (as defined in Ind. Code § 8-3-1-2), or intermodal facility, located in the jurisdiction of a governmental body.

The property tax exemption provided under SEA 166 will apply to assessment dates occurring after December 31, 2022.

### **Contact Information**

Questions may be directed to Jennifer Thuma, Deputy General Counsel, at [jthuma@dlgf.in.gov](mailto:jthuma@dlgf.in.gov).