



Department of Local Government Finance

Exemptions, Deductions, & Abatements

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August 2023



Disclaimer

This presentation and other Department of Local Government Finance materials are not a substitute for the law. The following is not legal advice, just an informative presentation. The Indiana Code always governs.



Seminar Roadmap

- Exemptions
 - 5 minute break – stand up/stretch/refresh
- Deductions
 - 10 minute break
- Abatements & Credits



Exemptions

- In Indiana law, exemptions for charity, religious, educational, scientific, literary, and municipal purposes date back to the beginning of Indiana statehood and the early days of the state constitution.
- Indiana's 1816 constitution & the current constitution from 1851.
- Article 10 of Indiana's Constitution—Legislature may exempt property from taxation.



Exemptions

- Indiana Constitution includes this allowance for the legislature because otherwise all property is taxable and taxation must be uniform & equal.
- With exemptions, the possibility of exceptions to that concept is carved out. The Indiana Constitution delegates that decision to the legislature.



Exemptions

- Concept of exemptions: Origins in English common law & even earlier (ancient law.)
- Indiana law incorporated English common law.
- For exemption procedures in Indiana Law: See IC 6-1.1-11
- (Form 136 filing; April 1 deadline, etc.)



Why an Exemption?

- Indiana's constitutional framers (delegates to the Constitutional Convention) encouraged certain activities by exempting property from taxation.
- Public Policy—Exemptions.
- Charitable, Religious, Literary, Educational, Scientific.
- What is an exemption? (Definition in IC 6-1.1-1-5)



Indiana Code 6-1.1-10-16 et. seq.

- Indiana Code 6-1.1-10-16 is founded on Indiana's constitutional framers' ideas (delegates to the Constitutional Convention) that encouraged certain types of activities by allowing legislature to exempt property.
- Burden of Proof is always on the taxpayer in exemption cases.
- Why? Because in granting an exemption, other taxpayers pay property tax.



Indiana Code 6-1.1-10 et. seq. – Additional Provisions

Specifically Exempt by Statute:

- Political Subdivision Property—IC 6-1.1-10-4
- Municipal Property—IC 6-1.1-10-5
- Property must be used for a municipal purpose.
- No requirement to file a Form 136 application.



Indiana Code Specific Statutory Exemptions

Specifically Exempt by Statute: 6-1.1-10-25

- YMCA
- Knights of Columbus
- Young Men's Hebrew Association
- Young Women's Christian Association
- Disabled American Veterans' Chapters
- Veterans of Foreign Wars Chapters
- American Foreign Legion Post
- Boy Scouts
- Girl Scouts
- Other by statute: Common areas, fraternity, sorority property



Indiana Code 6-1.1-10-36.3

- Predominate use test.
- 51% of the time the property must be used for an exempt purpose.
- Once you determine if the use qualifies, then you look at percentages of use.



Indiana Code 6-1.1-10-36.3

- Religious Use—If 51% or more, then the entire property is exempt—100% exemption.
- All other exemptions under this provision: If over 51% use, then they get the percentage only. (i.e. 65% charitable use, 65% exemption.)
- Once you determine use, then you look at percentages of use.



Indiana Code 6-1.1-10-16

- Little Lamb or Duke test (In case law, not statute) Hamilton County v. Duke (Tax Court 2017)
- If mixed use (exempt purpose & non-exempt) the taxpayer must keep time records.
- For example, 85% charitable use and 15% non-exempt use, property owner must keep records to qualify for an exemption.



Indiana Code 6-1.1-10-16

- With exemptions, most case law concerns charitable use.
- Some religious & educational exemption cases but not many (see specific statutes) & almost no scientific exemption cases. Literary exemption cases are mostly from 1800's.



Indiana Code 6-1.1-10-16 Charitable Use

- Most exemptions at the IBTR and Tax Court levels focus on charitable use.
- Why is that?
- High bar as with all exemptions and specific older language in Tax Court cases related to charitable use from the last couple of decades that includes requirements to prove charitable use sufficient for an exemption.



Indiana Code 6-1.1-10-16 Charitable Use

- Owned, occupied, and used for an exempt purpose (unity of all 3.)
- Tax Court language.
- Cases with specific examples (housing/elder care/preschool nursery/hospitals/museums).



Indiana Code 6-1.1-10-16 Charitable Use

- Easy examples of property that would likely qualify:
 - Property used 100% of the time by a nonprofit foodbank to provide food at no cost to those in need.
 - The property is owned by the foodbank.
 - A nonprofit provides medical services for free to those in need using their property exclusively for this work. Volunteers are used and it is funded through donations.



Indiana Code 6-1.1-10-16 Charitable Use

- More Challenging Fact Patterns:
 - Property used 55% of the time by a nonprofit foodbank to provide food at no cost to those in need.
 - The property is owned by the foodbank. The remaining 45% of the time, the property is rented to a for-profit business selling its own food products.



Indiana Code 6-1.1-10-16 Charitable Use

- More Challenging Fact Patterns:
 - A for-profit business (not a nonprofit) owns an empty building that it is not using. The company decides to provide it rent-free for 5 years to a charity that uses it 100% of the time for services for the poor.



Indiana Code 6-1.1-10-16 Charitable Use

- More Challenging Fact Patterns:
 - A nonprofit hospital has an empty building that it leases for \$1 to a charitable organization providing medical services to those in need. To help cover costs, the charity charges \$10 per visit. Volunteers staff the clinic and each visit would actually cost \$300 if paid for by insurance or out of pocket.



Indiana Code 6-1.1-10-16 Charitable Use

- More Challenging Fact Patterns:
 - The Smith family owns 5 acres with several buildings. They live in a house on the property. The other buildings are used part of the time for community events, because the Smiths believe in giving back.
 - They apply for a charitable use exemption. What questions do you ask to determine whether the property is eligible?



Indiana Code 6-1.1-10-16 Charitable Use

- Study the exemption application; organizing documents (like bylaws); 1099 tax forms; case law; time records if mixed use; look at case law examples.
- Generally, the rules/case law and statutes about exemptions have not changed much in decades.



Indiana Code 6-1.1-10-16 Religious Use

- Remember: With this exemption, if the property is used 51% of the time or more for religious purposes the property is 100% exempt by statute.
- Generally, the rules/case law and statutes about exemptions have not changed much in decades.



Indiana Code 6-1.1-10-16 Religious Use

Examples that are generally easier to determine exempt use:

- A church, mosque, temple (etc.) that has provided services, religious study with no mixed use involving non-exempt purposes.
- Mixed use and other factors relating to use.



Indiana Code 6-1.1-10-16 Religious Use

More Challenging Fact Patterns:

- A group not organized as a nonprofit using a property intermittently that it owns and uses for religious purposes.
- Only 5 or 6 people attend religious studies or services every so often. Otherwise, the property is empty and not used.
- (Abyssinian Outreach Ministry v. Lake County Assessor (IBTR 2021)
(Property was not eligible for an exemption.)



Indiana Code 6-1.1-10-16 Religious Use

More Challenging Fact Patterns:

- A property formerly used as a church is sitting empty for years, and a new religious organization buys it. A pastor from another state uses the property occasionally for sleeping quarters and states that he is trying to get a congregation going. Not currently used for religious purpose of any kind.
- (Steps of Faith v. Porter County (IBTR 2020) Property was not eligible.



Indiana Code 6-1.1-10-16

Scientific, Literary Use

- Very few cases over the decades.
- Scientific exemptions must involve research—only 1 case in recent years.
- No literary cases in recent years—most cases date back to the 1800s.



Indiana Code 6-1.1-10-16 –Municipal Use

- If owned and used for municipal purpose, then the property is exempt.
- Not all property owned by a municipality is exempt.
- Examples:
 - Putnam Post-Acute v. Howard County case (IBTR 2021)



Questions



Deductions

- Blind & Disabled Deduction:
(IC 6-1.1-12-11)
- Over-65 Deduction & Circuit Breaker Credit
(IC 6-1.1-12-9 & IC 6-1.1-20.6-8.5)
- Veterans Deductions
(IC 6-1.1-12-13; 6-1.1-12-14; 6-1.1-12-14.5; IC 6-6-5-5.)
- Homestead Deduction:
(IC 6-1.1-12-37)



What is a deduction?

- What is a deduction?
- How is it different from an exemption?
- Relative to exemptions, the concept is a more modern one.
- The property is still taxable, but the taxpayer pays a reduced amount.
(Ind. Code 6-1.1-1-6)



Deductions

- Very specific categories, as opposed to exemptions, which have broader categories.
- Public tax policy: Disadvantaged populations. (low income, disability, etc.)
- These deductions are largely focused on helping these property owners maintain ownership so that taxes aren't so high that they can't afford to remain in their homes.



Deductions—Blind and Disabled

- Blind & Disabled—Indiana Code 6-1.1-12-11
- Provides for a deduction of \$12,480 from assessed value if the person is:
 - Blind or disabled.
 - Has an annual income of \$17,000 or less.



Over 65 Deduction (IC 6-1.1-12-9)

- 65 years of age or older.
- Income threshold is \$30,000 if single; \$40,000 if married.
- Social Security COLA will now be included each year so that eligible individuals are not excluded based on increasing income.
- Assessed value of \$240,000 or less (Savings Clause for trending). Only excluded for increases due to changes in use, new additions, etc.



Over 65 Deduction—Fact Patterns

- Fact Patterns:
 - Married couple and only one person qualifies by age. They meet all of the other factors.
 - Are they eligible for the over 65 deduction?
 - Yes; only one spouse need qualify by age.



Over 65 Deduction—Fact Patterns

- A married couple's combined gross income is \$41,000 with the social security COLA. The adjusted gross income is \$39,000.
- Do they qualify for the over 65 deduction?
 - Yes; they qualify.



Over 65 Deduction—Fact Patterns

- A married couple otherwise qualifies for the over-65 deduction.
- Both are receiving social security. To determine the eligible income, should you apply the COLA to both spouses' income?
 - Yes; the COLA should be applied to both spouses' incomes to determine eligibility.



Over 65 Deduction—Fact Patterns

- Three siblings own a property. One qualifies for the over 65 deduction.
- Should you consider the income of all three siblings when determining whether the property and person qualifies?
 - Yes; consider the income of all 3 people, including the COLAs.
- Do all three siblings have to be at least 65 to qualify?
 - No, only 1 sibling need be 65 years of age.



Over 65 Circuit Breaker Credit

- Age 65 or older.
- Assessed Value Threshold is \$240,000.
- Savings Clause: If trending puts the AV over \$240,000, the property still qualifies. If new improvements, change of use cause it to exceed the threshold, then the owner no longer qualifies.
- Income Level: \$30,000 single; \$40,000 married; Social Security COLAs.



Over 65 Circuit Breaker Credit

- Only one spouse of a married couple is 65. The other is below 65. Do they qualify if they otherwise meet the requirements?
 - Yes; only one person must be 65.
- Three siblings own a homestead property. Only one sibling is 65. The others are younger. If otherwise qualified, they meet the age requirements.



Over 65 Circuit Breaker Credit

- Can a person or persons receive both the over 65 circuit breaker credit and the over 65 deduction?
 - Yes; they may receive both.
- Must they apply for both separately?
 - Yes; two different applications are required.



Veterans' Deductions

Five Basic Types:

- Service Connected (While Actively Serving in the Military, the person was injured.)
- Non-Service Connected (The veteran was injured but not during military service.)
- A nonprofit gifted a homestead to the veteran.
- Spousal deduction after veteran passes away.
- License plate credits if veteran does not own property.



Veterans' Deductions

- Determine which veterans' deduction category to apply and don't add the various deductions together.
- Can a veteran receive a veterans' deduction, and a homestead, and supplemental homestead?
- Could a veteran receive a veterans' deduction and an over 65 deduction?
 - No. The over 65 statute places limits.



Veterans' Deductions-Service Connected

Indiana Code 6-1.1- 12- 13

- Injured with at least 10% disability during military service because of the service.
- (Could be while serving in a war-zone, in a training exercise, etc.)
- Deduction is \$24,960.



Veterans' Deductions-Non-Service Connected

Indiana Code 6-1.1-12-14 (\$14,000 deduction from assessed value)

- The veteran incurred a disability outside of military service and is totally disabled or is 62 and 10% or more disabled.
- Examples:
 - The retired veteran was driving home. He was injured in a car accident.
 - The veteran was working on his roof at home and fell.
 - The veteran is disabled because of mental health issues.



Veterans' Deductions-Non-Service Connected

- Indiana Code 6-1.1-12-14
- Additional requirements include:
 - Assessed value is not more than \$200,000.



Veterans' Deductions-Donated Homestead

- Indiana Code 6-1.1- 12-14.5
- A nonprofit organization donates a home to the veteran. If the veteran is 50% or more disabled, he or she receives the corresponding deduction from assessed value based on level of disability (50% deduction, 60%, etc.)



Veterans' Deductions—Credit for Vehicle Tax

- If the veteran does not own property, he or she is eligible for a credit for license plates. Or if there is a remaining credit because the property value is low, that amount can be used for license plates. (IC 6-6-5-5)



Veterans' Deductions—For Spouse

- A spouse maintains the same deduction the veteran qualifies for with exceptions (IC 6-1.1-12-13 & 14):
 - The veteran passes away and the spouse buys new property, selling the property with the deduction.
 - The property was not owned at the time of the veterans' death.



Veterans' Deductions—Practice Questions

- A veteran is not injured at all during military service. Would he or she be eligible for any veterans' property tax deduction?
 - No. All require some level of disability.
- A veteran fell while shoveling snow on his driveway at home after retirement from the military. His arm was broken and now he has some arthritis at age 40. He may be 10% disabled from this injury. Is he eligible for a deduction?
 - No.



Veterans' Deductions—Practice Questions

- A veterans' family gave him a house with land and he lives there full time. He is 60% disabled. Is he eligible for the deduction under Ind. Code 6-1.1-12-14.5?
 - No. The donating entity must be a nonprofit. (i.e. Habitat for Humanity)



Veterans' Deductions—Practice Questions

- A veteran and his wife own a home with a homestead deduction and a veterans' deduction. He passes away. Should the veterans' deduction be removed from the property?
 - No. The deduction remains on the property.
- Same fact pattern, except the wife sells the home. Will the deduction remain on the home for the new owners after the year in which the house is sold?
 - No. The deduction is specific to the veteran and spouse.



Veterans' Deductions—Practice Questions

- A veteran and his wife lived in a home with a homestead deduction and a veterans' deduction. He passes away. His wife buys a new home and sells the one with the deduction. Should the veterans' deduction transfer to the new home?
 - No. After the property is sold, the spouse no longer receives the deduction on a new property.



Homestead Deduction

Homestead Deduction: IC 6-1.1-12-37

- (Most provisions remain the same after the 2023 legislative session.)
- Principal place of residence.
- Intent to return (Case law back to the 1800's).
- No other homestead can be claimed at the same time.
- One house, one garage and up to one acre of land.



Homestead Deduction

- Changes:
- The legislature expanded what is included in the homestead but all must still be predominately used for homestead/residential use.
 - In addition to the one house, one garage (attached or detached) and one acre, now additional structures are included
 - All pools, decks, yard structures, one additional building (like a shed, carriage house, etc.)



Homestead Deduction

- Homestead also includes:
 - All decks, patios, gazebos, pools, geothermal.
 - 1 yard structure.
 - 1 additional building.



Homestead Deduction

- Yard structures Include:
 - Sheds, greenhouses, stables, tennis courts, second car garage, etc.
 - All must be predominately used for residential purposes.



Homestead Deduction

- Not Eligible for the Homestead:
 - Any structures not predominately used for residential purpose including for example:
 - Carriage House Rented out for 12 months.
 - A garage used predominately for a business.
 - A house predominately used for an Airbnb.



Homestead Deduction

- Change in Residential Property Definition
 - In addition to homesteads, it now includes residential rental property and nursing homes.
 - The homestead receives the 1% tax cap.
 - Residential rental property receives 2% tax cap instead of 3% as it was previously.



Homestead Deduction

Fact Patterns:

- Sally has a homestead and lives in the home 11 months out of the year. She rents the home for 1 month as an Airbnb during the Indy 500.
- The home is eligible for the homestead because it is predominately used as her principal place of residence. It also receives the 1% tax cap.



Homestead Deduction

Fact Patterns:

- John sometimes parks his own car in his second garage on his homestead property.
- 80% of the time John uses the second garage to operate his auto body repair shop.
- The second garage is not eligible for the homestead deduction. It also receives the 3% tax cap because it is used for business purposes.



Homestead Deduction

Fact Patterns:

- Jane uses the swimming pool in her backyard mostly for personal exercise.
- Occasionally she uses the pool to give swimming lessons and is paid for the lessons.
- The pool qualifies for the homestead and the 1% tax cap. It is predominately used as part of the homestead.



Homestead Deduction

Fact Patterns:

- Sally and John own a 1-acre property that is eligible for the homestead. They live in the main house. Sally's parents live in the carriage house. The carriage house is eligible for the homestead because it is a second building used for residential/homestead purposes.



Homestead Deduction

Fact Patterns:

- Sally and John own a 1-acre property that is eligible for the homestead. They live in the main house. Sally and John rent the carriage house to college students. The carriage house is not eligible for the homestead. It is rented out as residential property. The carriage house receives the 2% tax cap.



Homestead Deduction

Fact Patterns:

- Mark has a greenhouse on his 1-acre homestead. He uses it to grow herbs and plants for the family's use. The greenhouse is eligible for the homestead and the 1% tax cap.
- Mark has a greenhouse on his 1-acre homestead. He uses it to grow flowers for his flourishing floral business. The greenhouse is not eligible for the homestead. It also receives the 3% tax cap because it is used for business purposes.



Homestead Deduction

Fact Patterns:

- Mandy has stables on her 1-acre homestead. Her horses live in the stables. She takes the horses riding for fun with her family. The stables are part of the homestead and receive the 1% tax cap.
- Many has stables on her 1-acre homestead. She provides equestrian training as a business most of the time, and occasionally rides horses for fun. The stables are not eligible for the homestead. They receive the 3% tax cap.



Homestead Deduction

Fact Patterns:

- Mandy has a 1-acre homestead with one house and one garage. She also owns another adjacent 1-acre. It contains stables (a yard structure). She uses the stables only for personal horseback riding.
- The 1-acre homestead, house and garage receive the homestead and 1% tax cap. The stables receive the homestead and 1% tax cap. The rest of the 1-acre adjacent parcel is not part of the homestead and receives the 2% tax cap.



Homestead Deduction

Fact Patterns:

- Mandy has a 1-acre homestead with a house and a garage. She also owns an adjacent 1-acre parcel with stables, which she uses as an equestrian business.
- The 1-acre with the house and garage all qualify for the homestead and the 1% tax cap. The adjacent 1-acre parcel and stables are not homestead property and are taxed with a 3% tax cap because the property is used as a business.



Homestead Deduction

Fact Patterns:

- Mark owns a house and garage on 1-acre which he uses as a homestead. He owns an additional carriage house on an adjacent 2-acre parcel. He rents the carriage house to friends.
- The 1-acre, house and garage are part of the homestead and receive the 1% tax cap. The additional carriage house and land are taxed at 2% because the property is for residential use.



Questions



Abatements

- What is an abatement? Ind. Code 6-1.1-12-1 et. seq.) (50 IAC 10)
- It is a form of a deduction, but specifically granted for the purpose of rehabilitating property or creating economic development.



Abatements

- A designating body at the local level makes the decision regarding granting an abatement.
- The abatement applies to a new building or old building that will be rehabbed. It doesn't apply to land.
- What is abated is the increase in assessed value due to the improvements/changes.



Economic Revitalization Abatement

- Economic Revitalization Area (ERA)
 - An area that is within the corporate limits of a city, town, or county that has become undesirable for, or impossible of, normal development and occupancy.
 - A designating body at the local level (IC 6-1.1-12.1-1 (7)) decides.
- It is a legal description for a piece of real estate.
- If ownership transfers, the designation as an ERA transfers with the property.



Abatements

- The designating body must determine if the totality of the benefits (number of jobs, salaries, & other benefits) is sufficient to justify the deduction.
- The designating body may not designate an area as an ERA or approve the deduction unless it makes the required findings.
- (IC 6-1.1-12.1-4.5(b)(6))



Abatements

- Sec. 17. (a) A designating body shall establish an abatement schedule for each deduction allowed under IC 6-1.1-12.1.
- An abatement schedule must specify the percentage amount for each year of the deduction.
 - (IC 6-1.1-12.1-17)



Abatements

- Prohibited by statute from receiving real property abatements:
 - Golf courses; country clubs; massage parlors; tennis clubs; skating facilities; handball or racquetball facilities; hot tub facilities; suntan facilities; racetracks; package liquor stores.
 - (IC 6-1.1-12.1-3(e))



Abatements

- Vacant Building Abatement
 - A property tax deduction from the assessed valuation granted by the designating body for the occupancy of an eligible vacant building used & zoned for Commercial or Industrial purposes in an ERA. (It must be unoccupied for one (1) year and it does not include the A/V of the land.)
 - It's not a deduction because the building is empty but because the vacant building is being put back into use.



New Farm Equipment Abatement

- Added during the 2022 legislative session.
- New Farm Equipment (real and personal property) is eligible with a 5 year limit.



Personal Property Abatements

- Manufacturing – IC 6-1.1-12.1-1(3)
- Research & Development – IC 6-1.1-12.1-1(12)
- Information Technology – IC 6-1.1-12.1-1(16)
- Logistical Distribution – IC 6-1.1-12.1-1(13)
- New Farm Equipment – IC 6-1.1-12.1-1(14)-(15)



Other Statute Based Exemptions

- New Manufacturing Equipment – (IC 6-1.1-12.1-1(3))
- Used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other personal property.
- Includes new equipment or used equipment brought into the state.
- Abatement deduction period can be 1 – 10 years for a and up to 20 years for an enhanced abatement.



Questions



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