Property Tax Deductions

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Deductions

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

Deductions

- Burden of Proof is always on the taxpayer in deduction appeals.
- Why? Because in granting a deduction, other taxpayers pay property tax.

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.

Blind and Disabled Deduction

- Blind & Disabled (IC 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 Deduction (IC 6-1.1-20.6-8.5)

- 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 or 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:
  a) Service Connected (while actively serving in the military, the person was injured.)
  b) Non-Service Connected (The veteran was injured but not during military service.)
  c) A nonprofit gifted a homestead to the veteran.
  d) Spousal deduction after veteran passes away.
  e) 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

- Ind. Code 6-1.1- 12- 13 ($24,960 deduction from assessed value.)

- 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.)

Veterans' Deductions – Non Service Connected

- IC 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

- IC 6-1.1-12-14

- Additional requirements include:
  - Assessed value is not more than $200,000

Veterans' Deduction - Donated Homestead

- IC 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' Deduction - 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’ Deduction – 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' Deduction – 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’ Deduction – 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' Deduction – 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' Deduction – 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, and 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 background 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.

- Mandy 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?

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