
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

PROPERTY TAX DEDUCTION FAQ

AUDITORS' ASSOCIATION

2013 SPRING CONFERENCE

Indiana Department of Local Government Finance
June 4, 2013

1. Can you provide a brief overview of the veteran deductions as amended in spring, 2013? Specifically, does personal property still receive a full deduction? What about a person who owns a mobile home but no real property? And what is the amount of the deduction available to a person who owns no property?

HEA 1546, which made changes to the veterans' deduction statutes, was vetoed by Governor Pence. The veterans' deduction statutes are, therefore, unchanged, unless the veto is overridden by the legislature. If that happens, the DLGF will distribute a memorandum on the changes. For a good overview of veterans' deductions, you may want to review http://www.in.gov/dlhf/files/Veterans_Presentation.pdf, which is found on the DLGF's website.

2. Scenario: A person buys property in another county in November, 2010, applies for a homestead deduction on the sales disclosure form, and that county applies the deduction to the tax bill for 2010 Pay 2011. The property was a foreclosure, so there was no homestead deduction in place as of March 1. The person also own property in another county where he is receiving the homestead deduction for 2010 Pay 2011. Does he receive the deduction in both counties for 2010 Pay 2011?

It is possible this person could receive a homestead deduction on both properties for the 2010 Pay 2011 cycle if the person is moving from one homestead to another within the same cycle. See IC 6-1.1-12-37(h), which provides for this situation.

3. Since homestead deductions have been verified by the "pink forms," can all of the previous homestead deduction filings from the last 30 years be destroyed?

Contact the Indiana Commission on Public Records at 317-232-3380 or the Indiana Public Access Counselor at 317 234-0906 for guidance on retaining public records.

4. When someone transfers property that has a homestead deduction in place, at what point is the information removed from the homestead database?

No, information should be removed from the homestead database. The homestead database is a running database with the ability to track the most recent and historical data. To deactivate a record, a vacated

homestead record could be created. In this system, no records are replaced and new records are created for each filing.

5. Can two deeded owners who are not husband and wife file for disability deductions on the same property (in other words, one deduction each)?

Yes.

6. Can a husband and wife owning two parcels claim two mortgage deductions—one for the husband and one for the wife?

Yes. The husband can apply for and receive a mortgage deduction on one property and the wife could apply for and receive a mortgage deduction on the other property.

7. When do we remove deductions? For instance, a property owner had mortgage, homestead, and age deductions in place on March 1, 2013 and then died November 30, 2013.

If the deductions are validly in place on March 1, they stay in place for the entire tax cycle, even if the owner dies later in the year. They are removed for the next cycle.

8. Have the assessors been made aware of the spring, 2013 change in law permitting a homestead deduction for land that is vacant as of March 1? Here the property should roll over as “homestead eligible” in order for the parcel to receive a homestead deduction. Will this cause data compliance issues?

Following each legislative session, the DLGF drafts and distributes memoranda regarding the new legislation to affected parties. That particular memorandum has not yet been distributed, but the assessors will be included in the distribution. As long as these properties carry an appropriate property class code, they should not cause any issues with data compliance.

9. Is the assessed valuation limit for the totally disabled veteran deduction going to be increased from \$143,160?

No. SB 165, which proposed to raise the assessed valuation limit, died in committee.

10. Where an individual is living on a property receiving a homestead deduction as of March 1, but then finishes construction on and moves into a new home by December 31, doesn't the deduction have to be left in place on the first property?

HEA 1545 added subsection (p) to IC 6-1.1-12-37 (copied below), which requires the county auditor to cancel the homestead deduction for other property listed by a taxpayer on the application for the homestead deduction for property that either was vacant or incomplete on the assessment date. The last two sentences in the new IC 6-1.1-12-37(p) state the auditor's responsibility with respect to this new section. As to carryover referenced in IC 6-1.1-12-45, that is available for a property that changed hands and the new owner is eligible for the homestead (or certain other) deduction.

(p) An individual is entitled to the deduction under this section for a homestead for a particular assessment date if:

(1) either:

(A) the individual's interest in the homestead as described in subsection (a)(2)(B) is conveyed to the individual after the assessment date, but within the calendar year in which the assessment date occurs; or

(B) the individual contracts to purchase the homestead after the assessment date, but within the calendar year in which the assessment date occurs;

(2) on the assessment date:

(A) the property on which the homestead is currently located was vacant land; or

(B) the construction of the dwelling that constitutes the homestead was not completed;

(3) either:

(A) the individual files the certified statement required by subsection (e) on or before December 31 of the calendar year in which the assessment date occurs to claim the deduction under this section; or

(B) a sales disclosure form that meets the requirements of section 44 of this chapter is submitted to the county assessor on or before December 31 of the calendar year for the individual's purchase of the homestead; and

(4) the individual files with the county auditor on or before December 31 of the calendar year in which the assessment date occurs a statement that:

(A) lists any other property for which the individual would otherwise receive a deduction under this section for the assessment date; and

(B) cancels the deduction described in clause (A) for that property.

An individual who satisfies the requirements of subdivisions (1) through (4) is entitled to the deduction under this section for the homestead for the assessment date, even if on the assessment date the property on which the homestead is currently located was vacant land or the construction of the dwelling that constitutes the homestead was not completed. The county auditor shall apply the deduction for the assessment date and for the assessment date in any later year in which the homestead remains eligible for the deduction. A homestead that qualifies for the deduction under this section as provided in this subsection is considered a homestead for purposes of section 37.5 of this chapter and IC 6-1.1-20.6. The county auditor shall cancel the deduction under this section for any property that is located in the county and is listed on the statement filed by the individual under subdivision (4). If the property listed on the statement filed under subdivision (4) is located in another county, the county auditor who receives the statement shall forward the statement to the county auditor of that other county, and the county auditor of that other county shall cancel the deduction under this section for that property.

11. Regarding the designation of common areas, roads, etc., for circuit breaker purposes, will this affect what the assessor will be rolling to the auditor in July, 2013 or does this effect what will be rolled to the auditor in 2014?

The statute is effective January 1, 2014 and is for credit determinations made after 2013 and beyond.

SECTION 21. IC 6-1.1-20.6-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 1.2. (a) This section applies to credit determinations after 2013.

(b) As used in this chapter, "common areas" means any of the following:

(1) Residential property improvements on real property on which a building that includes two (2) or more dwelling units, a mobile home, or a manufactured home is located, including all roads, swimming pools, tennis courts, basketball courts, playgrounds, carports, garages, other parking areas, gazebos, decks, and patios.

(2) The land and all appurtenances to the land used in connection with a building or structure described in subdivision (1), including land that is outside the footprint of the building, mobile

home, manufactured home, or improvement.

SECTION 22. IC 6-1.1-20.6-4, AS AMENDED BY P.L.131-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 4. As used in this chapter, "residential property" refers to real property that consists of any of the following:

- (1) A single family dwelling that is not part of a homestead and the land, not exceeding one (1) acre, on which the dwelling is located.
- (2) Real property that consists of:
 - (A) a building that includes two (2) or more dwelling units;
 - (B) any common areas shared by the dwelling units (**including any land that is a common area, as described in section 1.2(b)(2) of this chapter**); and
 - (C) the land ~~not exceeding the area of the building footprint~~, on which the building is located.
- (3) Land rented or leased for the placement of a manufactured home or mobile home, including any common areas shared by the manufactured homes or mobile homes.

12. Is there a set acreage for the residential property 2% cap (similar to how homestead property is limited to one acre)? I am concerned that a person who has a rental property on 10 acres is going to request a 2% cap on all ten acres.

There is no limit on acreage for the 2% cap. If the property meets the requirements for the 2% cap, it should be given the 2% cap.

13. It was discovered via a "pink form" that a taxpayer had a total of four homestead deductions filed in three Indiana counties. One deduction was on his primary residence and the others were on three properties he had intended to sell on contract (no contracts were ever recorded). Taxpayer stated he had filed all of the deductions himself on behalf of the intended contract buyers. The county removed the homestead deduction for 2012 Pay 2013 and turned the parcel over to SRI for proper notification of three-year back collection. We were later notified by our county assessor's office to replace the homestead deduction on this same property for the past three years via a 133 signed by a PTBOA member. (NOTE: our auditor had signed DECLINE, DO NOT ALLOW HOMESTEAD.) What is our course of action as far as the auditor's office is concerned? Obviously the homesteads on the properties other than his primary residence are not valid. When we ask our county assessor for an explanation, we have simply been told "there is a LAW that states you only have to be eligible not actually apply."

Failure to file the pink form authorizes an auditor to terminate a deduction for 2012 Pay 2013 and forward. It does NOT authorize an auditor to go back prior years for taxes and penalties. The auditor needs a separate and independent reason to go back prior years. An IBTR ruling 2012 held that to receive the 1% tax cap, property need only be *eligible* for a homestead deduction. This ruling has been overturned by SEA 517.

14. Will there ever be a finite time when a taxpayer must provide documentation for reinstatement of a homestead deduction terminated for failure to file the pink form (i.e., a person comes 15 years from now and brings in five years of documentation)? Do we have to reinstate for all years?

Under existing law, there is no deadline by which a taxpayer must provide proof of eligibility to have a homestead deduction reinstated. It is unknown whether the General Assembly will change this. Yes, you must reinstate the deduction for all years for which it was terminated for failure to file the verification form.

15. Are you going to import the info from the sales disclosure file from the assessor? When?

To facilitate ease of data entry, the DLGF will be reinstating the import functionality if a county desires. However, this will be something counties need to request and will not be done automatically. We are working on this functionality and hope to implement it for counties later this summer.

16. Why can't the DLGF get or build a database using the Department of Revenue information? If counties just had a list of taxpayers' places of residency based on tax returns, we could find fraud.

The statute does not provide authority to do so. Additionally, DOR income tax filings require a mailing address, which could be uncorrelated with residency. The only residency on income tax filings is county residency as of January 1 for local income tax, which would not be a conclusive test of residency.

17. In 2012 a taxpayer turned in an address change giving an out-of-county address. Because of the address change for that tax year should the deductions be removed?

Not necessarily. The county auditor who received the notification should inquire as to whether the ownership or use of the property in question has changed and then determine, based on the facts, whether the property is still eligible for the deductions.

18. Can you clarify the term "carryover provision" regarding homestead deductions? Does it only refer to someone who is eligible March 1, 2012, then sells the property April 6, 2012 (meaning the homestead deduction "carries over" for the 2012 Pay 2013 tax year)? Or does it mean that if we have an eligible owner on March 1, 2012, he receives the deduction for 2012 Pay 2013 but then it carries over for one year (meaning the property would receive the deduction for 2013 Pay 2014 as well)?

If a homestead deduction is validly in place on March 1, 2012, it will stay in place for the entire 2012 Pay 2013 tax cycle, even if the property changes hands later in the year. If this occurs, the new owner should apply for the deduction in his or her name for 2013 Pay 2014. Otherwise, the deduction will come off March 1, 2013.

19. What is the proper handling of the mortgage deduction in the following scenarios?

a. On March 1, 2013 a property has a mortgage deduction. The property is transferred on July 1, 2013 and the new owner does not apply for the deduction. Is it applicable to the 2013 Pay 2014 taxes or should it be removed?

b. On March 1, 2013, a property does not have a mortgage deduction. The property is transferred on July 1, 2013 and the new owner files for the deduction. Is it applicable to the 2013 Pay 2014 taxes or would it first be applied to the 2014 Pay 2015 taxes?

c. What about other deductions in the above scenarios (i.e., over 65, blind/disabled person, veterans)?

-a. The property will receive a mortgage deduction for 2013 Pay 2014 in the amount designated by statute. The deduction will be terminated for 2014 Pay 2015.

-b. The deduction would be applicable to 2013 Pay 2014. Since the property had no mortgage in place as of March 1, the deduction amount will be \$0.

-c. Again, deductions validly in place on March 1 will remain in place for the entire tax cycle. They should be terminated for the next tax cycle if a new owner doesn't apply for them in his or her own name. If a person buys a property after March 1 and no deductions were in place as of March 1, the new owner could apply for them and, if correctly applied for, they would take effect for that same tax cycle.

20. The DLGF will be reviewing the homestead deduction verification website for incomplete forms. This will include filings that are missing (i.e., Social Security Number). But the auditors were informed that they cannot require the Social Security Number from taxpayers at this point if they do not want to give it to us, as long as they provide proof of residence. How can this be considered an incomplete filing?

The filing is still incomplete for the purposes of the homestead verification database. The auditor's office may still request the last five digits of the SSN, but it cannot be a condition of the reinstatement. In this situation, if the taxpayer still will not provide the numbers, the auditor can document that the taxpayer refused to provide the information in the notes section on the homestead database. It will be considered complete for the purposes of data compliance.

21. I do not understand why the DLGF will not take a firm stance on how deductions are supposed to work. If we send an inquiry we normally get the statute back and are advised to contact our county attorney. This seems to defy the whole push by the state (i.e., Gateway) for all counties to do thing to the same. Also, logic would provide that the legal counsel for DLGF would have a greater amount of expertise on the subject of deductions, whereas the 92 local counsels may not and there may be the potential for a greater percentage of counties following the same guidelines in applying deductions.

The DLGF consistently explains how deductions work and how the law applies in certain situations. Where a question requires analysis of a deed or trust, for instance, or where a fact pattern is extremely complex, the DLGF may recommend that the auditor address the question to his or her county attorney. Since the DLGF's legal staff have the State as their client, they cannot provide legal counsel to county officials.

22. Can transfers be made within appropriation series without council approval? Example: 117 to 150. 220 to 230. 390 to 320. If no resolution has been passed stating the transfers have to go before the council, is it illegal?

Generally, transfers within the same category (i.e., supplies) do not need council approval. Cross-category changes do need council approval. The DLGF encourages you to contact the State Board of Accounts for guidance.

23. If a married person has or applies for a veteran's deduction and his/her spouse wants to apply for the over 65 deduction, how do you determine if they qualify based on the income requirement? They would most likely file a joint return and we would not be able to know if they are under the income guidelines.

In order to be eligible to receive the over 65 deduction (IC 6-1.1-12-9), the combined adjusted gross income of the individual and his or her spouse or the individual and all other individuals (spouse and non-spouse) with whom the individual shares ownership as joint tenants or tenants in common cannot exceed \$25,000 for the calendar year preceding the year in which the over 65 deduction is claimed. Therefore, the county auditor should consider the adjusted gross income of all owners (as joint tenants or tenants in common) of the property when determining eligibility for the over 65 deduction. There is no income limit for the veteran deductions.

24. Our county had a taxpayer come in and state that he filed for a homestead deduction but it was not showing up on his tax bill. We requested that the taxpayer bring in his receipt, but he said

he did not have one and didn't keep it or misplaced it. We searched our records, files, folders, binders, and the database and have found no record of the homestead deduction in question. The taxpayer was very adamant that he had filed the deduction. We requested he file a new form. Do you have any suggestion on dealing with this issue?

The taxpayer can apply for the deduction from scratch to ensure he receives it for 2013 Pay 2014. He may file an appeal if he believes he was denied a deduction to which he was entitled for 2012 Pay 2013.