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) 232-8779

TO: County Auditors

FROM: Amanda J. Stanley, Communications Specialist AJS

RE: Disabled Veteran Deductions

DATE: September 23, 2009

The purpose of this memorandum is to provide an overview of the disabled veteran deductions currently available and applicable to real property and mobile/manufactured homes not assessed as real property ("mobile/manufactured home") located in the State of Indiana. **These provisions are the same as they have been in previous years**; the Department is sending this memo out as a reminder and reference due to the number of recent questions we have received on this topic.

Disabled Veteran Deduction

1. **Who qualifies?** Individuals, trusts and surviving spouses who meet the requirements outlined below qualify for the deduction.

Individuals

An individual may receive the disabled veteran deduction if all of the following apply:

(1) the individual served in the military or naval forces of the United States for at least ninety (90) days;

(2) the individual received an honorable discharge;

(3) the individual is totally disabled OR is at least sixty-two (62) years old and has a disability of at least ten percent (10%);

(4) the individual owns the real property or mobile/manufactured home not assessed as real property ("mobile/manufactured home"); OR is buying the real property or mobile/manufactured home under contract, recorded in the county recorder's office, that provides that the individual is to pay property taxes on the property; and

(5) the assessed value of the individual's tangible property, as shown by the tax duplicate, does not exceed $143,160.

Note: An individual who has sold real property or a mobile/manufactured home to another person under a contract, which provides that the contract buyer is to pay the property taxes, may not claim the disabled veteran deduction with respect to the real property or mobile/manufactured home. (Therefore, if John Doe sells his property on contract to Tom Smith, he can no longer receive the disabled veteran deduction on that property. However, Tom Smith, who is purchasing the property and who is liable for the property taxes, would be eligible for the disabled veteran deduction if all other eligibility requirements are met.)

Trusts

A trust is entitled to the disabled veteran deduction for property owned by the trust and occupied by an individual if the county auditor determines that the individual:

(1) upon verification in the body of the deed or otherwise, has either:

   a. a beneficial interest in the trust; or

   b. the right to occupy the property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(2) otherwise qualifies for the deduction; and

(3) would be considered the owner of the property under IC 6-1.1-1-9(f) or IC 6-1.1-1-9(g).

Note: When considering ownership, IC 6-1.1-1-9(f) states that when a life tenant of real property is in possession of the real property, the life tenant is the owner of that property. IC 6-1.1-1-9(g) states that when the grantor of a qualified personal residence trust is in possession of the real property transferred to the trust and entitled to occupy the real property rent free under the terms of the trust, the grantor is the owner of that real property.

Surviving Spouses

The surviving spouse of an individual may receive the disabled veteran deduction if the individual would qualify for the deduction if the individual were alive.

2. How can the individual prove his or her disability?

The individual can provide <u>any of the following</u> as proof of disability:

(1) United States Department of Veterans' Affairs Form 20-5455 Code 1 in Item #15 or:

(2) A pension certificate or an award of compensation issued by the United States Department of Veterans' Affairs or;

(3) A certificate of eligibility issued to the individual by the Indiana Department of Veterans' Affairs ("DVA") after the Indiana DVA has determined that the individual's disability qualifies the individual to receive the deduction.

Veteran with Service Connected Disability Deduction

1. **Who qualifies?** Individuals, trusts and surviving spouses who meet the requirements outlined below qualify for the deduction.

Individuals

An individual may receive the veteran with service connected disability deduction if:

(1) the individual served in the military or naval forces of the United States during any of its wars;

(2) the individual received an honorable discharge;

(3) the individual has a service connected disability of ten percent (10%) or more; and

(4) the individual owns the real property or mobile/manufactured home not assessed as real property ("mobile/manufactured home"); or is buying the real property or mobile/manufactured home under contract, recorded in the county recorder's office, that provides that the individual is to pay property taxes on the property.

Note: An individual who has sold real property or a mobile/manufactured home to another person under a contract, which provides that the contract buyer is to pay the property taxes, may not claim the veteran with service connected disability deduction with respect to the real property or mobile/manufactured home. (Therefore, if John Doe sells his property on contract to Tom Smith, he can no longer receive the veteran with service connected disability deduction on that property. However, Tom Smith, who is purchasing the property and who is liable for the property taxes, would be eligible for the veteran with service connected disability deduction if all other eligibility requirements are met.)

Trusts

A trust is entitled to the veteran with service connected disability deduction for property owned by the trust and occupied by an individual if the county auditor determines that the individual:

(1) upon verification in the body of the deed or otherwise, has either:

a. a beneficial interest in the trust; or

b. the right to occupy the property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(2) otherwise qualifies for the deduction; and

(3) would be considered the owner of the property under IC 6-1.1-1-9(f) or IC 6-1.1-1-9(g).

Note: When considering ownership, IC 6-1.1-1-9(f) states that when a life tenant of real property is in possession of the real property, the life tenant is the owner of that property. IC 6-1.1-1-9(g) states that when the grantor of a qualified personal residence trust is in possession of the real property transferred to the trust and entitled to occupy the real property rent free under the terms of the trust, the grantor is the owner of that real property.

Surviving Spouses

The surviving spouse of an individual may receive the disabled veteran deduction if the individual would qualify for the deduction if the individual were alive.

2. How can the individual prove his or her disability?

The individual can provide <u>any of the following</u> as proof of disability:

(1) United States Department of Veterans' Affairs Form 20-5455 Code 2 in Item #15

(2) A pension certificate or an award of compensation issued by the United States Department of Veterans' Affairs

(3) A certificate of eligibility issued to the individual by the Indiana Department of Veterans' Affairs ("DVA") after the Indiana DVA has determined that the individual's disability qualifies the individual to receive the deduction.

<u>Deduction Qualification Examples:</u>

Example 1

John Smith owns property valued at $100,000. He is 70 years old and has a service connected disability of 50 percent, which is evidenced by the appropriate DVA form. He received an honorable discharge after his service in the Vietnam War (his term of service was at least 90 days). **Mr. Smith will receive both the disabled veteran deduction and the service connected disability deduction** (United States Department of Veteran's Affairs Form 20-5455 Code 3 in Item #15).

Example 2

Jane Doe owns property valued at $100,000. She is 28 years old and has a service connected disability of 15 percent, which is evidenced by the appropriate DVA form. She received an honorable discharge after her service in the Iraq War (her term of service was at least 90 days). **Ms. Doe will receive the service connected disability deduction. If the value of her property**

remains under $143,160, she will be eligible to receive the disabled veteran deduction when she turns 62 years old or her disability is increased to 100 percent.

Example 3

Joe Long owns a property valued at $150,000. He is 85 years old and is 50 percent disabled; although this disability is not service connected. Mr. Long received an honorable discharge after his service in World War II (his term of service was at least 90 days). **Mr. Long is not eligible to receive the disabled veteran deduction because the value of his property exceeds the $143,160 limitation. He is not eligible to receive the veteran with service connected disability deduction because his disability is not service connected.** (Mr. Long may be eligible to receive the blind/disabled deduction if all eligibility requirements for that deduction are met.)

Example 4

Tim Green resides, rent free, in a property owned by a trust and valued at $135,000. He is 50 years old and has a service connected disability of 100 percent, which is evidenced by the appropriate DVA form. He received an honorable discharge after his service in the Gulf War (his term of service was at least 90 days). **Because Mr. Green would otherwise be eligible for the disabled veteran deduction and the service connected disability deduction, the deductions can be applied to the property owned by the trust.**

Note: The individual is ***not*** *required to reside on the property or be a resident of Indiana in order to receive the disabled veteran deduction and/or the veteran with service connected disability deduction. Therefore, a qualified individual who is a resident of Florida but owns property in Indiana may receive the deduction(s) on his property in Indiana.*

Note: An individual is eligible for the disabled veteran deduction and/or veteran with service connected disability deduction on property he or she owns regardless of the other owners of the property. Therefore, a qualified individual who owns property with his wife may receive these deductions on his property or a qualified individual who owns property with his siblings, children or acquaintances can receive these deductions on his property. However, after the individual's death only his surviving spouse is eligible to continue to receive those deductions.

<u>General Questions:</u>

1. What is the maximum deduction amount?

The total amount of disabled veteran deduction, which an individual may receive for a particular year, is $12,480. The total amount of veteran with service connected disability deduction, which an individual may receive for a particular year, is $24,960.

If the individual qualifies for both the disabled veteran deduction and the veteran with service connected disability deduction, the total amount of veteran deductions, which an individual may receive for a particular year, is $37,440.

After the deduction(s) amount, for which the individual is eligible, is applied to his or her real property, the remaining deduction(s) amount may be applied to personal property owned by the individual and used as an excise tax deduction. Any amount remaining after the deduction(s) have been applied to real property, personal property and excise tax cannot be claimed by the individual. The amounts provided above are maximum amounts.

2. How can an individual file for the deduction?

In applying for the veteran deduction(s), the individual shall complete State Form 12662.

Note: The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

In addition to the deduction application, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract with the first statement that the buyer files with respect to a particular parcel of property. When an individual purchasing a property on contract files the disabled veteran deduction application for the first time, he also must provide a copy of the recorded contract or recorded memorandum of the contract.

Real Property

The application must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. (Therefore, if the application is completed and dated on or before December 31, 2009 and filed with the county auditor on or before January 5, 2010, the application deadline would be satisfied for property taxes first due and payable in 2010.)

Mobile Home

The application must be completed, dated and filed with the county auditor during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. (Therefore, if the application is filed before March 31, 2009, the application deadline would be satisfied for property taxes first due and payable in 2010.)

If you have any questions, please contact Communications Specialist Amanda Stanley at 317-233-9218 or astanley@dlgf.in.gov.