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

Frequently Asked Questions

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DEDUCTION QUESTIONS

1. Over 65 deduction – applicant was over 65 and signed the form. There is a spouse. The applicant is now deceased. Do we remove the deduction?

A surviving spouse is entitled to an Over 65 deduction under IC 6-1.1-12-9(f) if (1) the surviving spouse is at least 60 years old on or before December 31 of the year preceding the year the deduction is claimed; (2) the deceased spouse was at least 65 years old at the time of death; (3) the surviving spouse has not remarried; and (4) the surviving spouse otherwise fulfills all other requirements of the deduction. However, the surviving spouse must still apply for the deduction. If the deceased spouse died after January 1, the deduction remains on the property until the next assessment date. The surviving spouse must file for the deduction for the next assessment date. If the deceased spouse died on January 1, the surviving spouse would have to timely file for that assessment date to retain the deduction.

2. Title to real estate is held as husband and wife. I'm over 65 and my spouse is not yet 65. Is the amount of the deduction $12,480?

Per IC 6-1.1-12-9(e), if a husband and wife have joint ownership in the property only one Over 65 deduction may be allowed. Hence, the maximum amount of the deduction is $12,480. Please note, however, that only one of the spouses who are joint owners would have to be over 65 to satisfy the age requirement.

3. Over 65 deduction – What is the deduction amount if only one person that's on title to the real estate is over 65?

An individual who owns real property and qualifies for the Over 65 deduction is entitled to a deduction in the amount of the lesser of (1) one-half (1/2) of the assessed value of the real property; or (2) $12,480. See IC 6-1.1-12-9(b). As stated in the above question, only one deduction may be allowed if the applicant is a joint owner of the real property and is also over 65. If several individuals own the property as tenants in common or joint tenants, but only one of the co-owners is over 65, the deduction amount is reduced by an amount equal to the deduction multiplied by a fraction: the numerator is the number of tenants not over 65 and the denominator is the total number of tenants. See IC 6-1.1-12-9(h).

4. **After reviewing the FAQs on the DLGF website regarding the over 65 deduction, I would like some clarification. Do you consider all property owned by taxpayer applying for over 65 deduction or just the dwelling and 1 acre (meaning homesteaded property)?**

IC 6-1.1-12-9 says that the deduction applies to the individual's real property, mobile home, or manufactured home not assessed as real property. It is not necessarily limited to the 'homestead' as defined in IC 6-1.1-12-37.

5. **In 2016, we had 6 people apply for the Heritage Barn Deduction. They were approved by the assessor and paid the $50 fee and received the deduction for pay 2017.**
    a. **Do we need to annually notify the recipients of this deduction to let them know they need to come in and reapply if they want to receive this deduction next year?**
    b. **Also how do we disperse those monies at settlement?**

    a. IC 6-1.1-12-26.2(e) states in part that "A person that receives a deduction . . . and that remains eligible for the deduction in the following year is not required to file an application for the deduction in the following year." Unless the auditor determines that the deduction should be taken off the property, the law requires the deduction to remain on as long as the property remains eligible.
    b. IC 6-1.1-12-26.2(f) requires that the auditor apply the fee money "equitably among the police and fire departments in whose territories each heritage barn is located." So if, for example, the territory in which a heritage barn is located has a police department and a fire department, the fee for that heritage barn is divided evenly (that is, $25 to each department).

6. **If a taxpayer missed the deadline to file for Enterprise Zone Deduction, do they have any recourse?**

Under IC 6-1.1-45-10, an application for an Enterprise Zone deduction must be filed by May 15 of the assessment year. The auditor may extend this deadline by thirty (30) days if the taxpayer files a request before May 15 and claims good cause (e.g., sickness, absence from the county, any other good and sufficient reason). If a failure to timely file the deduction application is not resolved by an auditor's extension, then under IC 6-1.1-45-10(d) an urban enterprise association may waive failure to file a timely and complete deduction application by conducting a public hearing and adopting a resolution.

7. **If a heritage barn is remodeled for other use, like a home or a wedding venue, is it still eligible for the heritage barn deduction? How do you define "integrity of the barn"?**

The heritage barn deduction statute defines a heritage barn, in part, as retaining "sufficient integrity of design, materials, and construction to clearly identify the building as a barn." IC 6-1.1-12-26.2(a)(2)(B). What constitutes 'integrity' under this statute may vary for each barn, though the statute does instruct that the barn must be of a mortise and tenon construction. By "mortise and tenon barn" the statute specifies this means a barn built using heavy wooden timbers that are joined together using wood-pegged mortise and tenon joinery which form an exposed structural frame.

Moreover, the barn must have been constructed before 1950, implying that the materials, design, and construction should be consistent with the standards used prior to 1950. Finally, the statute defines ‘barn’ as “a building (other than a dwelling) that was designed to be used for housing animals; storing or processing crops; storing and maintaining agricultural equipment; or serving an essential or useful purpose related to agricultural activities conducted on the adjacent land.” IC 6-1.1-26.2(a)(1). If a heritage barn is remodeled for use as a home, it would no longer fit the definition of ‘heritage barn.’ As for a wedding venue or some other purpose, it may depend on the extent of the remodeling. Especially if the barn is being used for a public venue, such as a wedding, local health and safety ordinances may require ‘modernizing’ the construction of the barn, making the integrity of the design, materials, and construction less consistent with the statutory definition of ‘heritage barn.’

The Department has noted, however, that a heritage barn that has been refurbished may still qualify for the deduction if the ‘core’ of the heritage barn is still there.

8. If John Smith owns a property (solely in his name and had the homestead deduction) but then passes away and the deed is then transferred to Jane Smith (which is solely in her name), does she have to file for the homestead deduction? The original application was taken in his name only, but her information was collected at that time.

Yes, Jane will have to refile for the homestead deduction, since she was not a joint owner with right of survivorship at the time of John’s death. The deduction application required Jane’s information be included because it is required by IC 6-1.1-12-37, but the application does not convey ownership rights to Jane or signify that she had them at the time of filing.

9. Under the old law the AV max for disabled Vet deduction was around $143,000. Now it is $175,000 for AV. Does the old application qualify them for $175,000 AV or will they need to refile?

IC 6-1.1-12-17.8 provides for any of the veteran’s deductions, among others, to be carried over to the following assessment date if the taxpayer remains eligible for that deduction. If a taxpayer was eligible for the veteran’s deduction (under IC 6-1.1-12-14) when the AV cap was set at $143,160, then as long as the property’s AV remains below the new threshold of $175,000 and the taxpayer is otherwise eligible to keep the deduction, then the taxpayer does not need to refile.

10. Regarding Sales Disclosures, the social security number and driver’s license number are both requested on the form. Is it required that both fields be provided?

IC 6-1.1-12-37(e)(4) requires either the last five digits of the social security number (note that it is only the <u>last</u> 5 digits, all 9 digits should not be included), or if the applicant does not have a social security number then the last five digits of the driver’s license number, state identification card number, preparer tax identification number obtained through the IRS or the last five digits of a control number on a document issued to the individual by the U.S. government. Both fields do not need to be provided.

11. Regarding the mortgage deduction, does one have to reapply for the deduction when the following items occur: refinance, reverse mortgage, or home equity loan?

Pursuant to IC 6-1.1-12-43(c), the Department prescribed the Indiana Property Tax Benefits form, State Form 51781, which states that a taxpayer receiving a mortgage deduction must refile whenever a loan is refinanced. As a taxpayer can receive more than one mortgage deduction (subject to the deduction amount limit), a taxpayer must reapply for a new mortgage deduction whenever a taxpayer takes out a new indebtedness on property, including a reverse mortgage or home equity line of credit.

12. If there is one property that is jointly owned by two brothers in which both are disabled, do they both receive the disabled deduction? What if they both are veterans, do they receive two veterans deductions on their tax bill?

The disabled deduction, unlike the homestead deduction or the mortgage deduction, is tied to the individual and not the property. Hence, two individuals that jointly own property may each receive a disabled deduction and apply it to that property. Similarly, because the veteran's deduction is tied to the individual and not the property, two individuals that jointly own property may each receive a disabled deduction and apply it to that property.

13. Does an individual who marries but does not put their new spouse on the deed to the house, need to reapply for the homestead deduction?

Indiana Code 6-1.1-12-17.8(d), as amended by HEA 1450, makes no distinction as to whether or not the new spouse is on the deed to the house. It simply requires that if an unmarried individual receiving a homestead deduction marries and would like to continue to receive the homestead deduction, while remaining eligible for such deduction, the individual must reapply for the homestead deduction for the next assessment date. As such, yes, a change in marital status even if no change to the deed would require reapplying for the homestead deduction.

14. The frequently asked question on the DLGF website defines homestead as the individual's principal place of residence which the individual owns. For example, Sue owns a home and marries Bob. She does not put Bob on the deed of the home. Does Sue have to reapply for homestead since Bob is not on the deed?

Please see the answer to Question 13 above. Based on a statutory change from HEA 1450 during the 2017 legislative session, yes, Sue would have to reapply for the homestead deduction.

15. IC 6-1.1-12-37 – HSTD on memorandum of contract. To get a homestead the contract must state name (buyer), legal description, buyer responsible for taxes, and a deed will be issued at pay off of the contract. Do memorandums also have to state this?

The purpose of a memorandum of contract is to provide for recording essential terms (parties, property description, price, term, etc.) without boilerplate or other non-essential terms and conditions. It is therefore expected that a memorandum of contract provided with the deduction application include the essential terms. IC 6-1.1-12-37(a)(2)(B)(ii) requires that the contract provide that the buyer be responsible for the property taxes and the deed be issued upon fulfillment of the buyer's contract obligations, but no such requirement is made for a memorandum of contract. If the memorandum does not include a statement for either condition, the auditor should ask for evidence that the applicant is responsible for the property taxes and will be issued the deed upon fulfillment of the contract obligations, as these are nonetheless statutory requirements for contract buyers to be eligible for the deduction.

16. Per HEA 1450, we have to notify the person we are terminating the deduction for? If, per the sales disclosure, we are instructed to remove one's homestead deduction from the old property and put it on the newly bought property, do we have to notify them?

IC 6-1.1-12-45(h), added by HEA 1450, requires that a county auditor notify the taxpayer of the auditor's intent to terminate the taxpayer's homestead deduction. This would be necessary if the auditor had determined that the taxpayer is no longer eligible for the homestead deduction. If the auditor is moving the deduction from one property to another and the taxpayer would be otherwise eligible for the homestead deduction on the new property, then it is not necessary to notify the taxpayer.

17. Why is the homestead deduction form not revised to remove the Assessor's area?

The Form HC10 has various purposes. The assessor fields provide a space for the assessor to verify for the auditor the appropriate assessed value on which to apply the deduction. The inclusion of the assessor on the Form HC10 also mirrors the Sales Disclosure Form which can be used for a similar purpose.

18. How are county auditors supposed to know or keep record of a person's marital status?

The taxpayer has the burden of proving eligibility for a deduction and updating the deduction application as required by statement. If the auditor questions the marital status of a particular taxpayer, the auditor may be able to request a copy of the marriage and divorce records from the county clerk of courts office.

19. One person moves and new owner now has the carry-over homestead deduction for that year. Does the county auditor still have to send a written notice to the new owner before terminating the carry-over homestead deduction?

Assuming the new owner has not filed for the homestead deduction by the deadline to retain the deduction once the carry-over period expires, then the auditor would have to provide the written notice.

20. Two brothers own property together and both are on the title. They are both disabled. Can they both receive the disabled deduction?

Please refer to the answer to Question 12, above.

21. Please give complete clarification (more black and white) guidelines regarding the laws pertaining to property deductions so that there is more county to county uniformity.

While the Department strives to provide clear guidelines for the application of deductions, the Department also recognizes that each situation may differ and may require the county officials to weigh the circumstances of the particular situation presented. However, the Department is happy to work with county auditors on ways to further clarify deduction procedures. County auditors are encouraged to contact the Department on specific deduction issues requiring clarity.

22. If there is a deduction in place at the time of sale but the new owner files a homestead before the end of the year, do we then remove the model home deduction for that year, or is that considered a “carry over?”

While the laws governing deductions are generally found in IC 6-1.1-12, the model residence deduction is governed by IC 6-1.1-12.6. Indiana Code 6-1.1-12-45 states that “a deduction under this chapter [IC 6-1.1-12]” in place for an assessment date remains for that assessment date regardless of the property changing hands or purchased in the same year. The Department believes that because IC 6-1.1-12-45 is limited to deductions contained in IC 6-1.1-12 that the model residence deduction would not be subject to the carry over provision because it is contained within a different chapter of the Indiana Code.

23. Can two people each have their own over 65 deductions on the same property if they qualify separately?

No. Indiana Code 6-1.1-12-9(d) states that real property, a mobile home, or a manufacture home owned by (1) tenants by the entirety (i.e., a married couple); (2) joint tenants; or (3) tenants in common; is limited to one over 65 deduction. Check the deed or title document to determine which of the above fit with respect to the applicants.

24. If a veteran files for a service connected or over 62 deduction by December 31, 2017, and owns no real estate, what year does he or she come back for the affidavit to take to the BMV?

Indiana Code 6-6-5-5.2 entitles a veteran who is ineligible to receive any of the veterans deductions (IC 6-1.1-12-13, IC 6-1.1-12-14, or IC 6-1.1-12-16) a credit not to exceed $70on his or her excise taxes for a given registration year. The statute is not clear on whether the ‘registration year’ is the year in which the assessment date falls that the veteran is ineligible to receive the deduction or is it the year in which the property taxes for the assessment date that the veteran is ineligible to receive the deduction falls? In other words, for 2017-pay-2018 taxes, the statute is unclear on whether the ‘registration year’ is 2017 or 2018.

The auditor’s obligation under IC 6-6-5-5.2 is to provide an affidavit to the taxpayer that he or she owns no property eligible for the veterans deduction for the assessment date. The taxpayer then provides the affidavit to the BMV. It is the BMV who determines whether to apply the credit against the taxpayer’s excise taxes, so the taxpayer would need to ask the BMV for what year the affidavit would apply. The Department, however, believes that because the veterans deductions base eligibility on ownership as of the date of the application, the credit would not be applicable until it is known whether the veteran could actually receive the veterans deductions or not. To be eligible for the veterans deductions, the veteran must own the property on the date the application is filed. For the 2017 assessment date, an application must be filed no later than January 5, 2018, if the application was completed and signed by December 31, 2017. It is conceivable, therefore, that a taxpayer can obtain ownership of the property on December 31, 2017, complete and sign the veterans deduction application, and file it timely. The veteran would therefore be eligible for the excise credit in 2018. Moreover, because excise taxes are on a schedule based on the taxpayer’s last name, it is conceivable that the veteran had already paid the excise taxes before it is known whether the veteran is ineligible for the deductions.

25. Do we inform the taxpayer when taking off any exemption? If so, is there a form for this?

Since 2009, IC 6-1.1-36-17 has imposed a procedure on collecting on ineligible homestead deductions. Indiana Code 6-1.1-12-45, amended this year and effective July 1, imposes a new requirement for auditors to notify the taxpayer that the auditor intends to terminate the taxpayer's deduction and give the reason for terminating the deduction. This notice may be given by first class mail or e-mail. The notice itself is not appealable under IC 6-1.1-15, but the auditor's decision to terminate the deduction is appealable under IC 6-1.1-15. The Department does not have a form for either procedure.

26. How are the over 65 deduction and the over 65 circuit breaker to be applied? Example, for the over 65 circuit breaker they have to have the homestead the year prior to be "eligible" for the homestead. Are counties making them come back in the next year to file the circuit breaker?

The Department has issued a memo on both the over 65 deduction and the over 65 circuit breaker, found here: http://www.in.gov/dlgf/files/150617_-_Frequently_Asked_Questions-Over_65_Guidance.pdf. The Department is not aware if counties are asking recipients of the over 65 deduction to apply for the over 65 circuit breaker in the following year. The Department has stated in the linked FAQ, however, that the deduction and the credit can be applied for separately. Hence, it is conceivable that the taxpayer can apply for and receive the over 65 deduction while still having to wait until the following year to receive the over 65 circuit breaker.

27. What is the procedure when we find someone claiming two homestead deductions in our county?

Please refer to IC 6-1.1-36-17, which provides for the procedures the auditor must use to collect on an ineligible homestead deduction.

28. Is there an IC code that states that a mortgage deduction can only be filed by a contract buyer if the contract is recorded and the amount of the purchase is stated on it?

Indiana Code 6-1.1-12-2(a) states as follows: "Regardless of the manner in which [an application for the deduction] is filed, the mortgage, contract, or memorandum (including a home equity line of credit) must be recorded with the county recorder's office to qualify for a deduction under [IC 6-1.1-12-1]."

29. If someone who has owned, lived, and had a homestead deduction on it for a long time comes up to file a disability deduction in July 2017, and they pass away in October 2017, do we remove that disability for 2017-pay-2018 or do we wait and remove it along with the homestead deduction for 2018-pay-2019?

Indiana Code 6-1.1-12-11(a) states that a person who has a disability or is blind can claim a deduction if he owns the property or is buying the property on the contract on the date the application is filed. If the taxpayer applied for the property in July 2017 and owns the property when he filed the application, then the deduction would apply for the January 1, 2017 assessment date.

30. For the over 65 deduction, does the income of a tenant under the age of 65 count toward the income threshold?

Yes, if by "tenant" you mean a co-owner of the property as a tenant by the entirety, joint tenant, or tenant in common. Indiana Code 6-1.1-12-9(a)(2) states as follows: "An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if the combined adjusted gross income of (1) the individual and the individual's spouse; or (2) the individual and all other individuals with whom the individual shares ownership, or is purchasing the property under a contract as joint tenants or tenants in common; for the calendar year preceding the year in which the deduction is claimed did not exceed [$25,000]." (Emphasis added.)

For a tenant (i.e., co-owner) who is under the age of 65, IC 6-1.1-12-9(h) states as follows: "In the case of tenants [not including the individual's spouse], if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants." Hence, although a tenant who is under 65 will be included in the income threshold, if the applicant remains eligible for the deduction the deduction amount will be reduced by a proportion of those tenants who are under 65. (NOTE: this reduction does not apply to the applicant's spouse.)

If by "tenant" you mean a tenant who has a leasehold and not an ownership interest in a property, then that is not the type of "tenant" considered by IC 6-1.1-12-9.

31. If a county auditor chooses to collect taxes under IC 6-1.1-36-17 for an individual who was receiving the benefit of a deduction for which they were ineligible, is there a time limit on how far back they may collect? Is there a time limit on when they must notify the taxpayer?

To be clear, this statute covers only ineligible homestead deductions. Indiana Code 6-1.1-36-17(b) states that an auditor who makes a determination that a taxpayer is ineligible for a homestead deduction within 3 years from on which taxes were first due may seek to collect back taxes, penalties, and interest. Hence, an auditor may go back 3 years from the current date. The statute does not provide for a time limit on when to issue the notice, except for the 3 year requirement.

32. What can be used to provide evidence that a taxpayer is eligible for the blind/disabled deductions?

Indiana Code 6-1.1-12-12(b) provides for the following:

Proof of blindness may be supported by

(1) the records of the division of family resources or the division of disability or rehabilitative services; or
(2) the written statement of a physician who is licensed by this state and skilled in the diseased of the eye or a licensed optometrist.

There is nothing in statute addressing any other disability, but IC 6-1.1-12-11(d) defines "an individual with a disability" as follows: a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which (1) can be expected to result in death; or (2) has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

33. A taxpayer is a veteran and sold her house to her grandson on contract. Should the auditor remove the veteran's deduction?

Assuming the deduction was validly in place for the assessment date, it should remain on for that assessment date. Unless the new owner can show eligibility for the deduction, then it should come off for the following assessment date.

34. If we get a sales disclosure for a homestead deduction and they are joint tenants what determines whose homestead it is because they both sign the application and they both live in the home?

You will need to consult with local counsel as to the nature of the joint tenancy. Generally, joint tenancies have a right of survivorship, meaning that if one co-owner terminates her ownership the other co-owner becomes the sole owner of the property. In which case, a joint tenancy can be regarded similar to a tenancy by the entirety (i.e., a marriage, usually) for purposes of the homestead deduction.

35. Can a person have a heritage barn deduction and the over 65 deduction? It does not state any restrictions in the law.

There are no restrictions in the law. Therefore, it is permissible.

36. Indiana Code 6-1.1-12-26.2 for the Heritage Barn states that the "Application must be filed during the year PRECEDING the year in which the deduction will first be applied." The applications state "application must be completed and signed on or before December 31 of the year for which the deduction is sought and filed or postmarked on or before January 5 of the following year." Therefore, which is correct? If they file in 2017 before the end of the year, do they get it for 2017-pay-2018 or 2018-pay-2019?

Note that IC 6-1.1-12-26.2(d) begins with "Subject to subsection (e) and [IC 6-1.1-12-45], the application must be filed during the year preceding the year in which the deduction will first be applied." Indiana Code 6-1.1-12-45(d) states that if (1) a statement is filed under [IC 6-1.1-12] on or before January 5 of a calendar year to claim a deduction under this chapter with respect to real property; and (2) the eligibility criteria for the deduction are met; the deduction applies for the assessment date in the preceding calendar year and for the property taxes due and payable based on the assessment for that assessment date. Therefore, a heritage barn deduction filed on or before January 5 of the year in which it is first applied is considered timely.

37. On the new law regarding taxpayers who are married or divorced, do we have to contact them when we remove the deduction or is it just their responsibility to know they need to file?

Indiana Code 6-1.1-12-17.8(d) states in part that, "if an unmarried individual who is receiving a deduction under IC 6-1.1-12-37 for a property subsequently marries, desires to continue claiming the deduction for the property, and remains eligible for the deduction, the individual must reapply for the deduction for the following assessment date. If a married individual who is receiving a deduction under IC 6-1.1-12-37 for a property with the individual's spouse subsequently divorces, desires to continue claiming the deduction for the property, and remains eligible for the deduction, the individual must reapply for the deduction for the following assessment date. However, the individual's failure to reapply for the deduction does not make the individual's former spouse ineligible for a deduction under IC 6-1.1-12-37. If a person who is receiving a deduction under IC 6-1.1-12-9 for a property subsequently comes to own the property with another person jointly or as a tenant in common, desires to continue claiming the deduction for the property, and remains eligible for the deduction, the person must reapply for the deduction for the following assessment date. If an unmarried individual who is receiving a credit under IC 6-1.1-20.6-8.5 for a property subsequently marries, desires to continue claiming the credit for the property, and remains eligible for the credit, the individual must reapply for the credit for the following assessment date." The auditor is not required to notify the taxpayers under this statute.

38. Is there anything we can do about the title companies completing the sales disclosure incorrectly? We have a lot of them that may say 'not married' and they are married or incorrect ID #'s or wrong states for driver's license numbers.

Under IC 6-1.1-5.5-6(a)(2), a county auditor may not accept a conveyance document if the sales disclosure form does not contain the required information, subject to the obligation of the party to furnish or correct the information in the manner required. Therefore, as is inferred by the statute, the auditor can reject the sales disclosure form and require the title company or the filing party to correct or complete the sales disclosure form.

39. When laws on deductions change is there any news briefs, etc., that go out to the public and title companies to make them aware of the changes?

The Department attempts to release memos on an annual basis regarding certain pieces of new legislation, including laws affecting deductions. Ultimately, however, it is the responsibility of the auditors, working with their local counsel, to become familiar with the new laws.

40. Since only one person in title can have a homestead deduction can one of the other people in title have a disability, age deduction, etc.? Ex: John & Betty Smith H&W & Tammy Turner are all in title. All of them live in the home. John & Betty applied for the homestead. Can Tammy apply for any deductions?

If Tammy is a co-owner of the property, then she can claim any property tax deductions except where prohibited by law. E.g., Tammy cannot receive both the over 65 and veterans deductions, or the veterans deductions & the homestead donated to a veteran deduction. She cannot also apply for her own homestead deduction.

41. If a taxpayer is not moving into the property but there is a homestead deduction from the previous owner do they still get the homestead for one year even if they did not qualify?

Indiana Code 6-1.1-12-45 states that a deduction valid for an assessment date remains on for that assessment date even if there has been a transfer of property. So if the previous owner had a valid homestead deduction for January 1, 2017 assessment date, then the deduction remains on for that assessment date even though the property was transferred to the new owner later in the year. The new owner, however, would have to prove his own eligibility for the deduction starting in the January 1, 2018 assessment date.

TAX INCREMENT FINANCE QUESTIONS

1. What is a target area and what makes it different than an Economic Revitalization Area ("ERA")?

An allocation area or target area is a legal description which defines the boundaries of the TIF district. The purpose of this area is used in the TIF calculation and is not related to the tax abatement program (ERA) found in IC 6-1.1-12.1. Within the TIF district, a property owner could decide that the benefits of the tax abatement program (ERA) are substantial enough to request the deduction so an Economic Revitalization Area could be established within the TIF district. Note: IC 6-1.1-12.1-2(k) requires a resolution from both the designating body and the legislative body of the TIF district before an ERA can be established.

2. Since statute does not provide a process through which a TIF district is to be closed, are there general best practices for county auditors to follow in closing a TIF district?

Statute is vague on the process by which a TIF district is closed. The Department's position is that a redevelopment commission does not collect property tax proceeds on an allocation area after the area has expired, as described in IC 36-7-14-39. The process by which an expiration is handled will ultimately be carried out by the county auditor and redevelopment commission. The Department encourages both auditors and redevelopment commissions to maintain detailed tracking on anticipated expiration dates. Furthermore, the Department recommends that county auditors and redevelopment commissions communicate regularly on pending TIF expirations. A change in TIF status may have a significant impact on various parties, including redevelopment commissions, taxing units, and taxpayers, making effective and regular communication between the redevelopment commission and the county auditor imperative. Ultimately, it is the county auditor's responsibility to provide for accurate tax billing, so the county auditor would be responsible for ensuring the TIF district is removed from the tax calculation when the TIF district has expired.

3. For residential parcels within a TIF district, is it correct that only the homestead portion of residential parcels do not have increment? In other words, if a parcel has an increase in AV and the parcel has both 1% homestead and 3% other property, is it correct that increment is captured on the 3% portion but not the 1%?

IC 36-7-14-39(a) does not distinguish between homestead and residential property. For TIF allocation provisions adopted after June 30, 1995 and establishing an economic development area, or for TIF allocation provisions adopted after June 30, 1997 and establishing a redevelopment project area, residential property AV should be included in the base assessed value.

4. How are land changes treated in the TIF neutralization worksheet (for example, the Assessor changes the land type from Agricultural or vacant-residential to commercial or industrial). Is this increase in land value considered "new construction" or changes in trending for the study? What about assessor changes in grade or condition?

Changes to assessed value due to a change in the tax status are to be reflected on line 5 of the TIF Neutralization Form. The net dollar amount of the change is removed from the assessed value so that amount is not neutralized. Changes by the assessor regarding the grade or condition of a property are reflected in the normal changes in assessed value over time, either as base or increment values.

MISCELLANEOUS QUESTIONS

1. Do title companies still have to have a notarized POA to sign the Sales Disclosure Form for either the seller(s) or buyer(s)?

Yes.

2. When will 2018 TIF neutralization worksheets be available?

The Department recently released the 2018 TIF neutralization worksheets. They may be found at http://www.in.gov/dlgf/2444.htm.

3. When will Form 22s be available to taxing units on Gateway?

Form 22 data submitted through Gateway is available to taxing units on Gateway's public site. It may be viewed within the Budgets group at https://gateway.ifionline.org/report_builder/.

4. If a parcel is set up in a Municipal Tax Exempt tax district ("MTE"), and the property transfers, does it remain in the MTE as long as the property is still classified as agricultural or does the transfer nullify the MTE?

Indiana Code 36-4-3-4.1(c) provides that real property classified as agricultural land that is annexed under an annexation ordinance adopted after June 30, 2015 is exempt from property taxes so long as the property remains classified as agricultural land. Conceivably, land classified as agricultural land could remain classified as such even after it has been transferred. That is, a transfer to another owner would not by itself change the classification.

5. Late filing of income approach – does the assessor have to adjust the AV?

This appears to address a situation when properties are assessed using the income approach to value. Specifically, when an assessor requests income information from the taxpayer but the taxpayer does not provide the information in a timely manner, can the assessor then adjust the assessed value if the information is received at a later date. This also touches on another situation where the taxpayer requests that the property be assessed using the income approach after the fact. The Department considers this a matter of local control, but this also seems to be dependent on whether the taxpayer filed an appeal and where the County is at with rolling and balancing the assessed values or certifying the net assessed values. The Department encourages discussing this with local counsel.

6. **Is there going to be any further information on this state site? We have run into some Counties that do not vacate the parcels when people move out so we have to call and check. We have never really received complete instructions on what is required with the site. Also the ones that are land contract buyers, life estate holders, beneficial interest, etc., are not going to match the system they are being pulled from. Is there a way they can see notes or something so we do not get them on our compliance report?**

This question concerns the homestead database. The Department fully transitioned to a new version of the site and plans to release additional information on the homestead database forthcoming in 2018. In the meantime, users can send all questions and requests for the site to homestead@dlgf.in.gov.