

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

TO: County Auditors, Assessing Officials & Property Tax Boards of Appeal

FROM: Wesley R. Bennett, Commissioner

RE: Legislation Affecting Property Tax Deductions and Exemptions

DATE: June 21, 2019

Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law.

I. Over 65 Deduction & Over 65 Circuit Breaker Credit

On April 29, 2019, Governor Holcomb signed into law Senate Enrolled Act 280-2019 (“SEA 280”). SEA 280 contains several revisions in the law regarding the Over 65 Deduction, the Over 65 Circuit Breaker Credit, and the Disabled Veteran Deduction.

A. Adjusted Gross Income & Assessed Value Cap; Deduction Amount

Beginning January 1, 2020, the adjusted gross income limitation for purposes of eligibility for the Over 65 Deduction will be increased as follows:

For the calendar year preceding by two (2) years the calendar year in which the property taxes are first due and payable:

- (1) Individuals who filed a single tax return may not have an adjusted gross income (as defined in Section 62 of the Internal Revenue Code) that exceeds \$30,000;
- (2) Individuals who filed a joint income tax return with their spouse may not have a combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) that exceeds \$40,000; and
- (3) Individuals who share ownership or are purchasing property under a contract as joint tenants or tenants in common may not have a combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) that exceeds \$40,000.

SECTION 1 (SEA 280) – IC 6-1.1-12-9

Prior to the enactment of SEA 280, the adjusted gross income limitation for purposes of eligibility for the Over 65 Deduction was \$25,000 for all applicants, regardless of the individual’s tax filing status. The assessed value cap has also been increased from \$182,430 to \$200,000 for the Over 65 Deduction, and the Over 65 Deduction amount will now be the lessor of: (1) one-half of the assessed value of the property; or (2) \$14,000.

Section 1 of SEA 280 is effective July 1, 2019.

B. Annual Adjustment & Deduction Eligibility

In determining the assessed value of the property for purposes of eligibility for the Over 65 Deduction, any increases in the assessed value based solely to an annual adjustment or trending under IC 6-1.1-4-4.5 are not to be considered. While assessed value increases due to annual adjustments will not be considered for purposes eligibility, assessed value increases based on physical inspections completed every four (4) years under cyclical reassessment plan will be considered for purposes of determining eligibility for the Over 65 Deduction.

C. Over 65 Circuit Breaker Credit

Beginning in 2020, anyone who first applies for the Over 65 Circuit Breaker Credit must have a total assessed value for all real property that is less than \$200,000. However, for any individual who received the Over 65 Circuit Breaker Credit before January 1, 2020, the total assessed value limitation is only applicable to the homestead property. For these taxpayers, the assessed value limitation for homestead property has also been increased from \$160,000 to \$200,000.

For individuals initially applying for the Over 65 Circuit Breaker Credit after December 31, 2019, the following requirements must be met in order to qualify for the credit:

- (1) Individual received the Homestead Standard Deduction in the immediately preceding calendar year;
- (2) Individual qualifies for the Homestead Standard Deduction in the current calendar year;
- (3) Individual is or will be sixty-five (65) years of age on or before December 31 of the immediately preceding calendar year;
- (4) Individual had an adjusted gross income for the two (2) immediately preceding calendar years that does not exceed:
 - (a) \$40,000 for joint filers; or
 - (b) \$30,000 for single filers; and
- (5) The assessed value of all real property owned is less than \$200,000.

The disqualification of homestead property for individuals first applying for the Over 65 Circuit Breaker Credit after December 31, 2019, will be based on whether the assessed value of all real property owned by the individual meets or exceeds \$200,000. The calculation of the Over 65 Circuit Breaker Credit was not revised by SEA 280, and an example of the calculation is below:

		18 Pay 19	19 Pay 20	20 Pay 21
Taxpayer #1	Homestead Property Tax Liability minus All Other Deductions and Credits from the AV	\$500	\$600	\$700
	Over 65 Circuit Breaker Credit	N/A	(\$90)	(\$88)
	Homestead Property Tax Liability after Application of Over 65 Circuit Breaker Credit	\$500	\$510	\$612
Taxpayer #2	Total AV of All Real Property	N/A	\$185,000	\$187,000
	Homestead Property Tax Liability minus All Other Deductions and Credits from the AV	N/A	\$2,000	\$2,200
	Over 65 Circuit Breaker Credit	N/A	N/A	(\$160)
	Homestead Property Tax Liability after Application of Over 65 Circuit Breaker Credit	N/A	\$2,000	\$2,040
Taxpayer #3	Total AV of All Real Property	N/A	\$200,000	\$201,000
	Homestead Property Tax Liability minus All Other Deductions and Credits from the AV	N/A	\$2,000	\$2,200
	Over 65 Circuit Breaker Credit	N/A	N/A	N/A
	Homestead Property Tax Liability after Application of Over 65 Circuit Breaker Credit	N/A	\$2,000	\$2,200

Taxpayer #1

- Maximum Property Tax Liability for 20 Pay 21 is limited to:
 $\$600 \times 1.02 = \612
- Over 65 Circuit Breaker Credit Calculation:
(20 Pay 21) Tax Liability - (20 Pay 21) Maximum Property Tax Liability = Credit
 $\$700 - \$612 = \$88$ (Credit)

Taxpayer #2

- Maximum Property Tax Liability for 20 Pay 21 is limited to:
 $\$2,000 \times 1.02 = \$2,040$
- Over 65 Circuit Breaker Credit Calculation:
(20 Pay 21) Tax Liability - (20 Pay 21) Maximum Property Tax Liability = Credit
 $\$2,200 - \$2,040 = \$160$ (Credit)

Taxpayer #3

- Ineligible to receive the Over 65 Circuit Breaker Credit because total assessed value of all real property owned is not less than \$200,000

II. Disabled Veteran Deduction

A. *Surviving Spouse Eligibility*

Beginning with taxes due in 2021, surviving spouses of service members killed while engaged in military duties will be entitled to the same deduction as disabled veterans. Under Section 2 of SEA 280, the service requirements for a surviving spouse's eligibility to receive the Disabled Veteran Deduction will now include:

- (1) The surviving spouse owns or is buying property on the date that the deduction application is due; and
- (2) The individual's spouse either:
 - (A) Met the following requirements at the time of death:
 - (i) served in the military or naval forces of the United State for at least 90 days;
 - (ii) received an honorable discharge;
 - (iii) either:
 - (a) had a total disability; or
 - (b) was at least 62 years old and had a disability of at least 10%; and
 - (iv) had a disability that was evidenced by:
 - (a) a pension certificated or an award of compensation issued by the United States Department of Veterans Affairs; or
 - (b) a certificate of eligibility issued by the Indiana Department of Veterans' Affairs; or
 - (B) Was killed while engaged in military or naval duties.

SECTION 2 (SEA 280) – IC 6-1.1-12-14

Section 2 of SEA 280 is effective July 1, 2019.

B. *Assessed Value Cap, Deduction Amount, & Annual Adjustments*

For the January 1, 2020 assessment date, the assessed value cap has been increased from \$175,000 to \$200,000. Additionally, the Disabled Veteran Deduction amount has been increased from \$12,480 to \$14,000.

Similar to the revisions for the Over 65 Deduction, any increases in the assessed value based solely to an annual adjustment or trending under IC 6-1.1-4-4.5 are not to be considered for purposes of determining eligibility for the Disabled Veteran Deduction. However, any assessed value increases based on physical inspections completed every four (4) years under cyclical reassessment plan will be considered for purposes of determining eligibility for the Disabled Veteran Deduction.

III. Repeal of Certain Tax Incentives

On May 5, 2019, Governor Holcomb signed into law Senate Enrolled Act 171-2019 (“SEA 171”). SEA 171 repeals the following tax incentives:

- (1) Veterans’ Mortgage Deduction (IC 6-1.1-12-17.5)
- (2) Coal Conversion System Deduction (IC 6-1.1-12-31)
- (3) Building using Coal Combustion Products Deduction (IC 6-1.1-12-34.5)
- (4) Aircraft Deduction (IC 6-1.1-12.2)
- (5) Intrastate Aircraft Deduction (IC 6-1.1-12.3)
- (6) Deduction for Purchases of Investment Property by Manufacturers of Recycled Components (IC 6-1.1-44)
- (7) Hoosier Alternative Fuel Vehicle Manufacturer Tax Credit (IC 6-3.1-31.9)
- (8) Local Income Tax Option Hiring Incentive Credit (IC 6-3.5-9)

All sections repealing the above tax incentives are effective January 1, 2020 – except for the section that repeals the Veterans’ Mortgage Deduction, which is effective July 1, 2019.

IV. Mobile Home Deductions

SEA 171 also specifies that the filing deadline for property tax deductions applicable to mobile homes and manufactured homes that are not assessed as real property is the same as the filing deadline for property tax deductions applicable to real property. Specifically, this revision would be applicable to the following deductions:

- (1) Mortgage Deduction (IC 6-1.1-12-2)
- (2) Over 65 Deduction (IC 6-1.1-12-10.1)
- (3) Blind or Disabled Deduction (IC 6-1.1-12-12)
- (4) Disabled Veteran Deduction (IC 6-1.1-12-15)
- (5) Surviving Spouse of a World War I Veteran Deduction (IC 6-1.1-12-17)
- (6) Solar Energy Heating or Cooling System Deduction (IC 6-1.1-12-27.1)
- (7) Wind Power Device Deduction (IC 6-1.1-12-30)
- (8) Hydroelectric Power or Geothermal Energy Deduction (IC 6-1.1-12-35.5)
- (9) Homestead Standard Deduction (IC 6-1.1-12-37)

All sections revising the filing deadline for mobile home or manufactured home deductions are effective July 1, 2019 – except for the section related to the Hydroelectric Power or Geothermal Energy Deduction, which is effective January 1, 2020.

V. Deduction Reapplication & Homestead Database

A. Deduction Reapplication

On May 5, 2019, Governor Holcomb signed into law House Enrolled Act 1427-2019 (“HEA 1427”). Section 24 of HEA 1427, effective July 1, 2017 (retroactive), removes the previous requirements under HEA 1450-2017. Under HEA 1450-2017, homeowners were required to reapply for the Homestead Deduction, the Over 65 Deduction, and the Over 65 Circuit Breaker

Credit in the case of divorce, marriage, or joint ownership. Section 24 of HEA 1427 removes these reapplication requirements.

If a Homestead Deduction, an Over 65 Deduction, or an Over 65 Circuit Breaker Credit was terminated between July 1, 2017 and April 30, 2019, for failure to reapply for the deduction or credit after a divorce, marriage, or subsequent joint ownership, the county auditor must retroactively reinstate the deduction or credit if the taxpayer provides proof that the taxpayer would have been eligible and is not currently claiming the deduction or credit for any other property.

B. Homestead Database Updates

Section 28 of HEA 1427, effective July 1, 2019, specifies that each county auditor is required to submit updates to the Department of Local Government Finance’s (“Department”) Homestead Database for deductions applicable to the current tax year on or before March 15 of each year.

VI. Deductions & Exemptions for Improvements

Section 64 of HEA 1427, effective July 1, 2019, specifies that for purposes of attributing the amount of a property tax deduction or exemption to the gross assessed value of a property:

- (1) A deduction or exemption that is specific to an improvement must be applied only to the assessed value allocation pertaining to that improvement; and
- (2) To the extent that a deduction or exemption is not specific to an improvement, the deduction or exemption shall be applied in the order that will maximize the benefit of the deduction or exemption to the taxpayer.

This clarification applies to property tax deductions under IC 6-1.1-12, abatements or economic revitalization area deductions under IC 6-1.1-12.1, investment deductions under IC 6-1.1-12.4, and property tax exemptions under IC 6-1.1-10.

VII. Exemption Extension

Section 17 of HEA 1427, effective May 5, 2019, provides that a taxpayer seeking a property tax exemption for property used for an educational, religious, or charitable purpose under IC 6-1.1-10-16 may file an exemption application up to thirty (30) days following the statutory deadline (April 1), if the taxpayer pays a late filing fee. The late filing fee must equal the lesser of:

- (1) Twenty-five dollars (\$25) for each day after the deadline; or
- (2) Two hundred fifty dollars (\$250).

VIII. Business Personal Property Exemption

A. Exemption Eligibility

On May 6, 2019, Governor Holcomb signed into law Senate Enrolled Act 233-2019 (“SEA 233”), which increases the acquisition cost threshold for the business personal property tax exemption from \$20,000 to \$40,000. Additionally, SEA 233 requires assessing officials to

provide notification, not later than 30 days prior to the filing date, to each person whose personal property is subject to assessment. This notification must include: (1) the date that personal property tax returns are due; (2) the telephone number and email address of the assessor's office; and (3) information on how to obtain the personal property tax forms.

Currently, assessing officials are required to provide a personal property tax return to taxpayers who own personal property that is subject to assessment. This legislation would, instead, require assessing officials to provide to notification by mail or e-mail to those taxpayers.

Beginning January 1, 2020, personal property tax returns for taxpayers that are eligible for the exemption must include the following information:

- (1) A declaration that the taxpayer's business personal property in the county is exempt from property taxation;
- (2) Whether the taxpayer's business personal property within the county is in one (1) location or multiple locations; and
- (3) An address for the location of the property.

If the business personal property is in multiple locations within a county, taxpayers must provide an address for the location where the sum of acquisition costs for business personal property is the greatest. However, if two (2) or more addresses contain the greatest equivalent sum of acquisition costs for the property within a given county, the taxpayer must choose only (1) address to list on the return.

B. Late Filing Penalty

Section 66 of HEA 1427, effective January 1, 2020, specifies that the \$25 late filing penalty must be included on the property tax bill associated with the tax district in which the majority value of the taxpayer's business personal property within the county is located. The determination of which taxing district the penalty will be applied must be made by the county assessor.

C. Local Service Fee

Section 3 of SEA 233 repeals IC 6-1.1-3-7.3, and counties will no longer be permitted to impose a fee for each informational return filed regarding exempt business personal property. Section 3 is effective July 1, 2019, and will be applicable for personal property returns due May 15, 2020.

IX. Data Centers Tax Exemption

On May 5, 2019, Governor Holcomb signed into law House Enrolled Act 1405-2019 ("HEA 1405"), which modifies the statute regarding property tax exemptions for enterprise information technology equipment or data centers. For the definition of what qualifies as an "eligible business", HEA 1405 increases the aggregate investment threshold from \$10,000,000 to \$25,000,000 in real and personal property at the facility or data center. This means that beginning July 1, 2019, a business is eligible for the exemption if it meets each of the following prerequisites:

- (1) The entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities;
- (2) The entity's qualified property is located in Indiana;
- (3) The business invests, in the aggregate, at least \$25,000,000 in real and personal property in Indiana after June 30, 2012; and
- (4) The average employee wage of the business is at least 125% of the county average wage for the county in which the business operates.

HEA 1405 also removes the distinction of enterprise information technology equipment in a "high technology district," including the previous requirement that a designating body must adopt a declaratory resolution specifying that a certain area qualified as a high technology district. Beginning July 1, 2019, a county or municipal fiscal body may enter into an agreement with an eligible business to exempt qualified property from property taxation.

X. Public Health Benefit Corporation Exemption

On April 24, 2019, Governor Holcomb signed into law House Enrolled Act 1345-2019 ("HEA 1345"), which establishes a property tax exemption for public health benefit corporation property. For assessment dates occurring after December 31, 2016, certain property owned by an Indiana nonprofit public benefit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code is exemption if:

- (1) The property is used in the operation of a nonprofit health, fitness, aquatics, and community center;
- (2) The acquisition and development of the property is funded, in part, under the regional cities initiative of the Indiana Economic Development Corporation under IC 5-28-38; and
- (3) Not more than four (4) years after the property is purchase, and for each year after the four (4) year period, the owner demonstrates substantial progress towards the use of the property as a nonprofit health, fitness, aquatics, and community center.

This exemption also includes any part of the property that is leased or licensed by the owner to another nonprofit or municipal entity for use as a nonprofit health, fitness, aquatics, or community center, and property that is used for storage and parking. In order to establish that substantial progress has been made on the property, the owner must provide documentation of certain factors, including:

- (1) Organization of and activity by a building committee or other oversight group.
- (2) Completion and filing of building plans with the appropriate local government authority.
- (3) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe actual construction can and will begin within four (4) years.
- (4) The breaking of ground and the beginning of actual construction.
- (5) Any other factor that would lead a reasonable individual to believe that construction of the improvement is an active plan and that the improvement is

capable of being completed within eight (8) years considering the circumstances of the owner.

If any property that is deemed to be exemption from property taxation has paid property taxes for the 2017 and 2018 assessment date, the owner of the exempt property is entitled to a refund without interest. Any claim for a refund of the amounts previously paid must be filed by the owner before September 1, 2019.

Contact Information

Questions may be directed to Emily Crisler, Deputy General Counsel, at (317) 234-8624 or emcrisler@dlgf.in.gov.