

REPRESENTATIVE FOR PETITIONERS: Lori Ruchti, *Pro Se*

REPRESENTATIVE FOR RESPONDENT: Adam J. Mindel, Attorney at Law

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Marc G. Ruchti Living Trust and Lori A. Ruchti Living Trust,	)	Petition Nos.:	64-019-17-1-5-00403-22
	)		64-019-15-1-5-00605-22
	)		64-019-14-1-5-00604-22
Petitioner,	)		64-019-13-1-5-00603-22
	)		64-019-12-1-5-00602-22
	)		64-019-11-1-5-00601-22
v.	)		64-019-10-1-5-00600-22
	)		64-019-09-1-5-00599-22
Porter County Assessor,	)	Parcel No.:	60-09-30-253-009.000-019
)		
Respondent.	)	Assessment Years:	2009-2015 and 2017
)		

July 10, 2023

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. The Marc G. Ruchti Living Trust and the Lori A Ruchti Living Trust (collectively, the “Trust”) claims it should have received a homestead deduction for its property for the 2009-2015 and 2017 assessment years. We conclude the Trust is not entitled to any relief because the appeals are untimely.

PROCEDURAL HISTORY

2. The Trust appealed the lack of a homestead deduction for the 2009-2015 and 2017 assessments for a property located at 156 Shorewood Drive, Valparaiso, Indiana on October 8, 2021.
3. The Porter County Property Tax Assessment Board of Appeals (“PTABOA”) issued Form 115 determinations denying the Trust’s claims. The Trust appealed to the Board. On February 23, 2023, Natasha Marie Ivancevich, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the subject property.
4. Lori Ruchti and Deputy Auditor Arlene O’Shea testified under oath.

5. The Petitioner introduced the following exhibits:

Pet’r. Ex. 1:	Exemption/Deduction Status Data Sheet
Pet’r. Ex. 2:	Porter County Website Tax Deduction Information
Pet’r. Ex. 3:	State Form 51781
Pet’r. Ex. 4:	I.C. § 6-1.1-12-7
Pet’r. Ex. 5:	I.C. § 6-1.1-12-17.8
Pet’r. Ex. 6:	I.C. § 6-1.1-22-8.1
Pet’r. Ex. 7:	I.C. § 6-1.1-20.9
Pet’r. Ex. 8:	I.C. § 6-1.1-36-17

6. The Respondent introduced the following exhibits:

Resp’t. Ex. 1:	Form HC10
Resp’t. Ex. 2:	Proof of Refund of Overpayment 2018-2020
Resp’t. Ex. 3:	I.C. § 6-1.1-15-1.2
Resp’t. Ex. 4:	<i>Hutcherson v. Ward</i> , 2 N.E.3d 138 (Ind. Tax Ct. 2013)
Resp’t. Ex. 5:	I.C. § 6-1.1-15-12 (Effective 2011-2014)
Resp’t. Ex. 6:	I.C. § 6-1.1-15-12 (Effective 2014-2016)
Resp’t. Ex. 7:	I.C. § 6-1.1-15-12 (Repealed by P.L. 232-2017)
Resp’t. Ex. 8:	Memorandum of law

7. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) a digital recording of the hearing.

FINDINGS OF FACT

8. The subject property was purchased in 1994. Upon purchase, a homestead standard deduction was applied for and granted. The deduction remained on the property until 2009, when it was removed for reasons not in the record. The Trusts timely paid the taxes for each year under appeal. *Ruchti testimony; O'Shea testimony.*
9. On July 20, 2021, the Trust filed an HC10 Application for Homestead Deduction. Upon receipt of the application, the Auditor granted the deduction for assessment year 2020 going forward. The Auditor also issued a refund to the Trust for assessment years 2017, 2018, and 2019. *O'Shea testimony; Resp't Ex. 2.*

PETITIONER'S CONTENTIONS

10. The Trust contended it is entitled to a refund for assessment years 2009-2015 and 2017 because it never asked for the homestead deduction to be removed, the Porter County Auditor illegally removed the homestead deduction from the property, and the Auditor failed to notify the Trust of the removal. *Ruchti testimony.*
11. The Trust further argued the statute of limitations should not apply in this case because the Auditor illegally removed the homestead standard deduction without notice and without authority. *Ruchti testimony.*

RESPONDENT'S CONTENTIONS

12. The Assessor argued the Trust's Form 130 Petitions were untimely, as they were not filed within three years of when the taxes were first due as required by Indiana Code § 6-1.1-15-1.1. *O'Shea testimony; Resp't Ex. 8.*

ANALYSIS

13. Indiana Code § 6-1.1-12-37 provides a standard homestead deduction from the assessed value of a homestead, which the statute defines as a dwelling that an individual or married couple owns and uses as their principal place of residence, and up to one acre of surrounding land. I.C. § 6-1.1-12-37(a)-(c). A property held in trust can also qualify for the deduction in certain circumstances. I.C. § 6-1.1-12-37(a); I.C. § 6-1.1-12-17.9. A person entitled to the standard deduction is also entitled to a supplemental homestead deduction under I.C. § 6-1.1-12-37.5.

14. Taxpayers may apply for the standard homestead deduction in one of two ways. First, they may file a certified statement with the county auditor on forms prescribed by the Department of Local Government Finance (“DLGF”). I.C. § 6-1.1-12-37(e). The DLGF has prescribed Form HC10 for that purpose. 50 IAC 24-4-2. A taxpayer must complete Form HC10 within the calendar year for which the deduction is sought and file that form on or before January 5 of the immediately succeeding year. *Id.*; I.C. § 6-1.1-12-37(e). Alternatively, a taxpayer may claim the deduction using the sales disclosure form that is completed when the property is purchased. *Id.*; I.C. § 6-1.1-12-44. If a taxpayer receives a deduction for a particular assessment year, it carries forward to the next assessment year without the need for another application if the taxpayer remains eligible. I.C. § 6-1.1-27-37(e); I.C. § 6-1-1-12-17.8.

15. Indiana Code § 6-1.1-15-1.1 sets different filing deadlines for different types of appeals. To appeal the assessed value of property for assessment dates before January 1, 2019, a taxpayer had to file notice by the earlier of (1) 45 days after the date the notice of assessment was mailed, or (2) 45 days after the date the tax statement was mailed. I.C. § 6-1.1-15-1.1(b)(1). For other enumerated errors, including the approval, denial, or omission of a deduction, a taxpayer has three years after the taxes were first due to file an appeal. I.C. § 6-1.1-15-1.1(a)(2)-(6), (b). In Indiana, property taxes for a particular assessment year are paid in two equal installments on May 10 and November 10 of the following year. I.C. § 6-1.1-22-9. Thus, for the 2009 assessment year, the deadline to

appeal was May 10, 2013, or November 10, 2013, depending on the installment at issue.¹

16. We first note that the evidence shows the Trust already received a refund for the 2017 assessment year.² For that reason, the Trust's claim for this year is moot. We now turn to the initial removal of the deduction for the 2009 assessment year. The Trust provided no support for its claim that the Auditor does not have authority to remove a deduction without an action by the taxpayer. Moreover, even if the Auditor's removal of the homestead deduction was erroneous, the Trust still needed to timely appeal that action. The Trust claims that it never received notice of the removal, but there is no indication that it did not receive the relevant tax bill. To the contrary, the taxes were timely paid. Ultimately, it is the taxpayer's duty to examine the tax bill and ensure that they are receiving all the deductions for which they are eligible. Thus, as previously stated, the Trust needed to appeal the removal of the 2009 deduction by May 10, 2013, or November 10, 2013, depending on the installment at issue. I.C. § 6-1.1-15-1.1(a)(2)-(6), (b). Because the Trust did not initiate its appeal until 2021, the appeal of the 2009 removal of the homestead deduction was untimely.

17. For the remaining years, the Trust's appeals were untimely because it did not timely file applications for the homestead deductions. As discussed above, a homestead deduction only carries forward if a taxpayer "receives" it in the previous year. I.C. § 6-1-1-12-17.8. Because the Trust did not receive a deduction for 2009, it did not carry forward to 2010 or any of the subsequent years under appeal. Thus, the Trust needed to file an application for each year by January 5 of the following year. 50 IAC 24-4-2; I.C. § 6-1.1-12-37(e). For that reason, the 2021 application for a homestead deduction was untimely for all of the years under appeal.

¹ Although these statutes have been changed and amended several times since 2009, this was the law in effect when the taxpayers filed their appeals (2021).

² There appears to be some confusion as to whether the earliest refund was granted for the 2018 assessment year or the 2017 assessment year. But Respondent's Ex. 2 clearly shows a refund was given for taxes due in 2018, i.e., the 2017 assessment year. *Resp't Ex. 2*.

18. We sympathize with the Trust's situation, especially given there is no indication the Trust would not have otherwise qualified for a homestead deduction. But the Board is a creation of the Legislature and has only those powers conveyed by statute. *Whetzel v. Dep't of Local Gov't Finance*, 761 N.E.2d 904 (Ind. Tax Ct. 2002) (citing *Matonovich v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1093, 1096 (Ind. Tax Ct. 1999)). And no statute gives us the authority to waive statutory deadlines. As discussed above, it is ultimately the taxpayer's responsibility to timely examine their tax bills to ensure they are receiving the appropriate deductions.

FINAL DETERMINATION

In accordance with the above findings and conclusions, we find the Trust is not entitled to any relief for any of the years under appeal.



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.