

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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

FROM: Wesley R. Bennett, Commissioner

RE: Legislation Affecting Property Tax Deductions and Exemptions

DATE: October 6, 2017

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

On April 28, 2017, Governor Holcomb signed into law House Enrolled Act 1450-2017 (“HEA 1450”). HEA 1450 makes numerous revisions in the law regarding property tax deductions and exemptions. This memorandum discusses these revisions.

I. Mortgage Deduction

Section 11 of HEA 1450, adds the following clarifying definitions to the mortgage deduction statute, IC 6-1.1-12-1:

“Installment loan” means a loan under which

- a lender advances money for the purchase of
 - o a mobile home that is not assessed as real property; or
 - o a manufactured homes that is not assessed as real property; and
- a borrower repays the lender in installments in accordance with the terms of an installment agreement.

“Mortgage” means a lien against property that

- an owner of the property grants to secure an obligation, such as a debt, according to terms set forth in a written instrument, such as a deed or a contract; and
- is extinguished upon payment or performance according to the terms of the written instrument.

The term includes a reverse mortgage.

Section 11 of HEA 1450 is effective July 1, 2017.

II. Automatic carryover of certain deductions

Section 12 of HEA 1450 amends IC 6-1.1-12-17.8, concerning the carryover of certain property tax deductions, in five ways.

First, it removes outdated provisions regarding the homestead verification project, which ended in 2014.

Second, it removes a clause entitling an individual receiving sole ownership of property in a divorce decree to a carryover of certain deductions.

Third, it states that an unmarried individual who receives a homestead deduction must refile for the deduction if the individual marries and remains eligible for the deduction. The deduction must be filed for on the assessment date following the marriage. Likewise, a married individual receiving the homestead deduction who subsequently divorces must reapply for the deduction for the assessment date following the divorce. However, if the divorcing individual fails to reapply for the deduction, it does not make the former spouse ineligible for the homestead deduction.

Fourth, a person receiving an over 65 deduction as a sole owner of property and who subsequently owns the property with another person jointly or as a tenant in common must reapply for the deduction for the following assessment date.

Fifth, an unmarried individual receiving a homestead credit and who subsequently marries must reapply for the credit for the following assessment date.

Section 12 of HEA 1450 is effective July 1, 2017.

III. Homestead deduction

Section 13 of HEA 1450, effective July 1, 2017, provides for the following regarding the homestead deduction.

A. Identification materials for applying for the deduction

If an individual applying for the homestead deduction does not have a Social Security number, the individual may use the last five digits of the individual's driver's license number, state ID number, preparer tax ID number obtained by the IRS, or a control number obtained by the United States government. Current law does not include the IRS issued number among the options.

B. Notice of ineligibility

Under amended subsection IC 6-1.1-12-37(f), if a person who is receiving or seeks to receive a homestead deduction in the person's name

- 1) changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction; or
- 2) is not eligible for a deduction because the personal is already receiving
 - A) a homestead deduction in the person's name as an individual or a spouse; or

B) a deduction under the law of another state equivalent to the homestead deduction in Indiana;

the person must file a certified statement with the auditor of the county stating that the person is ineligible. A person who fails to file the statement may be liable under IC 6-1.1-36-17 for any additional taxes that would have been due on the property if the person had filed the statement timely. The remainder of IC 6-1.1-12-37(f) remains unchanged.

The amendments to IC 6-1.1-12-37(f) are largely technical cleanup, though by replacing the term ‘individual’ with ‘person’ (which under IC 6-1.1-1-10 includes individuals but also business entities such as LLCs and corporations) it clarifies further the process as it applies to business entities.

C. Memorandum of contract

On April 21, 2017, Governor Holcomb signed into law Senate Enrolled Act 505-2017 (“SEA 505”). Effective July 1, 2017, Section 1 of SEA 505 amends IC 6-1.1-12-37(a) to provide that a contract for the purchase of a principal place of residence may be evidenced by a memorandum of contract recorded in the county recorder’s office. In essence, an applicant for the homestead deduction who is buying the property under contract may provide a recorded memorandum of the contract rather than the contract itself.

IV. One-year carryover

Section 14 of HEA 1450 clarifies that, for purposes of the one-year carryover of a deduction under IC 6-1.1-12-45, a person who fails to apply for a deduction or credit by the prescribed deadlines may not apply for the deduction or credit retroactively. This provision is effective July 1, 2017.

For example, a taxpayer acquired in August 2017 property from a previous owner who had been receiving a homestead deduction on that property. Hence, the taxpayer was entitled to receive the homestead deduction for the January 1, 2018 assessment date, but he would have to apply for the deduction for the January 1, 2019 assessment date. The taxpayer fails to apply by the deadline, filing the application on January 6, 2020. The filing will first apply for the January 1, 2020 assessment date.

Section 14 also specifies the following:

- For purposes of the mortgage deduction, a taxpayer receiving the deduction will have to reapply for the assessment date following a refinancing.
- Where applying for a deduction requires recording a contract with a county recorder, the taxpayer must record the contract or a memorandum of the contract before or concurrently with the filing of the corresponding deduction application.
- Before a county auditor terminates a deduction under this article, the auditor must notify the person claiming a deduction in writing that the auditor intends to terminate the deduction and specifying the auditor’s reasons. The auditor may send the notice by mail or e-mail. This notice is not appealable, but the taxpayer may appeal the auditor’s termination of the deduction.

Section 14 is effective July 1, 2017.

V. Exemption for medical providers of underserved areas

Section 10 of HEA 1450 adds IC 6-1.1-10-47, effective upon passage. This new section creates a property tax exemption for certain medical providers.

For assessment dates starting in 2018, tangible property owned by a nonprofit corporation is exempt if the following apply:

- 1) The owner is a 501(c)(3) nonprofit organization.
- 2) The owner is a federally-qualified health center (as defined in 42 U.S.C. 1396d(1)(2)(B)) and a primary medical provider that
 - a. accepts all patients and provides care regardless of a patient's ability to pay;
 - b. is located in a geographically medically underserved area; and
 - c. has received a grant at any time from the Indiana health care trust account under IC 4-12-5.
- 3) The owner was granted an exemption under IC 6-1.1-10-16 for a comparable facility in a contiguous county.
- 4) The applied for an exemption under IC 6-1.1-10-16 for a previous assessment date and was denied.

The property that is exempt also includes the following:

- 1) Property used in providing storage or parking.
- 2) Any part of the property that is leased or rented by the owner to another nonprofit corporation providing services or assistance to participants in the Special Supplemental Nutrition Program for the Women, Infants, and Children Nutrition Program under IC 16-35-1.5.

Finally, if the property is exempt but part of it is used by a for-profit enterprise, the exemption is reduced proportionately.

VI. Exemption filings

On April 28, 2017, Governor Holcomb signed into law Senate Enrolled Act 386-2017 ("SEA 386"). Section 7 of SEA 386 provides that a taxpayer who misses the deadline for filing an appeal under IC 6-1.1-11-3(a) may file a Form 136 for up to three (3) years after the missed deadline under the following conditions:

- 1) The property on which the person seeking an exemption was exempt from taxation for the tax year immediately before the deadline (May 15 for assessment years in 2015 and prior, or April 1 for assessment years 2016 and after).
- 2) The person seeking an exemption would have been eligible for the exemption on the deadline.

For example, a taxpayer wanted to apply for an exemption for 2017 but missed the April 1 deadline. In order to apply for the exemption despite missing the deadline, the taxpayer must

have had the property receive the exemption for 2016 and had to have it remain eligible for the exemption for 2017. The taxpayer would then have until April 1, 2020 to apply for the exemption.

Please note that this does not extend the deadline for an appeal of a denial of an exemption application. Section 7 is effective July 1, 2017, therefore it would not be applicable to assessment years before 2015 (i.e., the taxpayer can file an application by May 15, 2018 for the 2015 assessment date).

Contact Information

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