

REPRESENTATIVE FOR PETITIONERS: Kim and Richard Strychalski, *pro se*

REPRESENTATIVE FOR RESPONDENT: Lee Baker, Monroe County Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Kim and Richard Strychalski,)	Petition No.:	53-003-19-2-5-00641-19
)		
Petitioners,)	Parcel No.:	53-01-30-400-003.000-003
)		
v.)	County:	Monroe
)		
Monroe County Assessor,)	Assessment Years:	2015- 2017
)		
Respondent.)		

May 11, 2020

FINAL DETERMINATION

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

INTRODUCTION

1. After an audit, the Monroe County Auditor revoked the Strychalski’s homestead deduction for the subject property for 2015-2017 because they also received a homestead deduction for a property in Illinois for those years. Because the Strychalskis used the subject property as their principal place of residence, and because their son would have been entitled to the homestead deduction in Illinois, we find that they should receive the homestead deduction for the subject property for the years under appeal.

PROCEDURAL HISTORY

2. Kim and Richard Strychalski appealed the revocation of the homestead deduction for their property located at 9007 N. Shilo Road, Unionville, IN for 2015, 2016, and 2017.

The Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) denied their claim and they timely appealed to the Board. The Board’s designated Administrative Law Judge, Jennifer Thuma (“ALJ”), held a hearing on February 27, 2020.

3. The Strychalskis appeared *pro se*. Lee Baker, county attorney, represented the Monroe County Assessor. Judith Sharp, Monroe County Assessor, Stephanie Carter, Deputy Auditor and Customer Service Representative, Chris Munch, Chief Deputy Auditor, and Kim and Richard Strychalski were sworn as witnesses.
4. The following exhibits were entered into the record without objection:

Respondent Exhibit 1:	Homestead Audit Questionnaire
Respondent Exhibit 2:	Voter Registration-Kim Strychalski
Respondent Exhibit 3:	Voter Registration-Richard Strychalski
5. The record also includes the following: (1) all pleadings, briefs and documents filed in the current appeals; (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

FINDINGS OF FACT

6. The Strychalskis bought the subject property in 2014 and have spent the majority of their time there since 2015. They consider it their principal place of residence. They receive all mail, including bills, credit cards statements, and a daily newspaper at the property’s address. They also spend time at their son’s home in Illinois. The ownership of the Illinois property is somewhat unclear. Some evidence indicates that the Strychalski’s own the property, while they also refer to their son as “an owner” of the property. *Kim Strychalski testimony*.
7. The Strychalskis originally received a homestead deduction for the subject property for 2015-2017. In 2019 the Monroe County Auditor discovered that, in addition to the subject property, the Strychalskis had also claimed a homestead on the Illinois property. After this discovery, the Auditor sent a homestead questionnaire to the Strychalskis. Based on the answers to the questionnaire, including that they were registered to vote at

the Illinois property, and that they filed taxes in Illinois, the Auditor revoked the homestead deduction for the subject property for 2015-2017. *Carter testimony; Resp't Ex. 1.*

8. The Strychalskis claimed that due to a filing error, the Illinois homestead exemption was claimed in their names rather than their son's. Their son lives at the Illinois property and pays the taxes. After learning of the Illinois homestead from the Monroe County Auditor, they "went back and corrected it" so that "the exemption is now in his name." *Kim Strychalski testimony.*

ANALYSIS

9. While property is generally taxable in Indiana, Indiana law provides for exceptions. The homestead deduction is described in Indiana Code § 6-1.1-12-37. Each year, a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. Ind. Code § 6-1.1-12-37(b). (*See also 50 IAC 24-3-1*) The statute provides a deduction in specified amounts for homesteads, which it defines as follows:

- (a) (1) "Dwelling" means any of the following:
 - (A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.
- (2) "Homestead" means an individual's principle place of residence:
 - (A) that is located in Indiana;
 - (B) that: (i) the individual owns; (ii) the individual is buying under contract; recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence . . . ; and (C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

10. While the Indiana Code does not define "principal place of residence" the term is defined by administrative rules and is described in Indiana case law. The Indiana administrative code defines this phrase for purposes of the homestead exemption as "an individual's true, fixed, permanent home to which the individual has the intention of returning after an absence." 50 IAC 24-2-5. In addition, generally a single person or

married couple may not claim a deduction on more than one property. Ind. Code § 6-1.1-12-37(h).

11. The evidence shows the Strychalskis used the subject property as their principal place of residence. They spent the majority of their time there, had bills, newspapers, etc. delivered there. Although their failure to change their voter registration is some indication that they did not intend to permanently reside in Indiana, it is not dispositive. Overall, the evidence shows that the subject property was their home. Nevertheless, for the years under appeal they also claimed a homestead deduction on the Illinois property in violation of Ind. Code § 6-1.1-12-37(h). Normally, when such a violation occurs, taxpayers should cancel the incorrect deduction and pay any taxes due. *See Kellam v. Fountain County Assessor*, 999 N.E. 120 (Ind. Tax Court 2013) (finding that a taxpayer that originally received a deduction for one property was entitled to a deduction on another property after paying the additional taxes due without a homestead deduction on the first property).

12. Here, the Strychalskis appear to claim that no additional taxes are due on the Illinois property because their son was actually entitled to that homestead deduction for the years under appeal. When they learned they were receiving two deductions, they went back to the Illinois office and had it corrected. The purpose of Ind. Code § 6-1.1-12-37(h) is to prevent a person or married couple from claiming a homestead deduction on more than one property, such as a vacation home in addition to a primary residence. This is not the case here. While the Illinois deduction was originally in the Strychalski's name, that appears to have been an error. There is no indication that their son, as an owner and resident of the Illinois property, would not have been entitled to the Illinois homestead deduction for the years under appeal. Given these circumstances, we find the Strychalskis are entitled to the homestead deduction in Indiana.

CONCLUSION

13. The Strychalskis used the subject property as their principal place of residence for the years under appeal. Although they were originally receiving an additional homestead deduction in Illinois, that was an error they have since corrected. Thus, we find the Strychalskis are entitled to the homestead deduction and associated tax caps for the subject property for 2015, 2016, and 2017.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

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>>