COUNTY AUDITORS' SPRING 2011 CONFERENCE

Taxes & Penalties on Ineligible Homestead Credit

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IC 6-1.1-36-17

- IC 6-1.1-36-17 prescribes
  - County Auditor notification of ineligible standard deduction and, if applicable, ineligible homestead credit
  - Calculation of adjustment in tax after termination of deduction and, if applicable, homestead credit
  - Establishment of non-reverting fund to receive tax and, if applicable, penalty due after termination of deduction and, if applicable, homestead credit
  - Permissible uses of non-reverting fund

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IC 6-1.1-12-37(f)

- IC 6-1.1-12-37(f) prescribes
  - 10% civil penalty due on additional taxes from termination of standard deduction
  - Remittance to state of 1% of the civil penalty
  - Civil penalty becomes part of property tax liability, which means
    - Nonpayment can cause property to be eligible for tax sale
    - Included in late payment penalty calculation if not paid in full by regularly scheduled tax due dates

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IC 6-1.1-12-37(f) 10% Civil Penalty

- If an individual's use of property changes so that part or all of the property no longer qualifies for a standard deduction, then
  - The individual is required to notify the county auditor of the change not more than 60 days after the change
- If the individual fails to notify the county auditor within the 60 days, then
  - The individual is liable for the additional taxes resulting from the change in the standard deduction or the termination of the standard deduction
  - And is liable for a 10% civil penalty on the additional taxes

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IC 6-1.1-12-37(f) 10% Civil Penalty

- 1% of the civil penalty is remitted to the state auditor at settlement as DLGF Homestead Property Database Fund
- 99% of the civil penalty is revenue to the IC 6-1.1-36-17 non-reverting fund
- The IC 6-1.1-36-17 non-reverting fund is the County Auditor's Ineligible Deductions Fund

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IC 6-1.1-36-17 & IC 6-1.1-12-37(f) Additional Tax

- The additional property tax is equal to the tax resulting from the change or termination of the
  - Standard deduction
  - If applicable, supplemental standard deduction
  - If applicable, homestead credit (state and/or local)
  - If applicable, circuit breaker credit
- The County Auditor's Ineligible Deductions Fund receives all of the additional tax

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IC 6-1.1-36-17 & IC 6-1.1-12-37(f) Additional Tax

- Tax rates and, if applicable, credit rates used to calculate additional tax are the tax rates and credit rates applicable to the tax year calculated
  - For example if the additional tax calculated is for 2009 pay 2010, then use 2009 pay 2010 rates
  - If the calculation is for multiple years, then each year is calculated using the rates applicable to that year
- The sum of all the years is the additional tax charged and is the basis of the 10% civil penalty calculation

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IC 6-1.1-36-17 Notification of Ineligible Standard Deduction

- When the county auditor determines an ineligible standard deduction, then the county auditor
  - Notifies the county treasurer and
  - Issues a notice to the owner
    - Of the tax and civil penalty due
    - That the payment is payable to the county auditor
    - And that the full amount is due within 30 days after the date of the notice

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IC 6-1.1-36-17 Non-reverting Fund County Auditor's Ineligible Deductions Fund

- Receives
  - The additional tax and
  - 99% of the 10% civil penalty
- Expenditures require county council appropriation

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County Auditor's Ineligible Deductions Fund

- Permissible uses
  - Fees and cost incurred by the county auditor to discover property eligible for a standard deduction or homestead credit
  - Cost incurred in the preparing, sending and processing the "pink" forms
  - Other cost of the county auditor's office

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County Auditor's Ineligible Deductions Fund

- The deposits to the fund, balance of the fund and expenditures from the fund may not be considered in
  - Establishing the county auditor's budget, or
  - Setting property tax levies that will be used in any part to fund the county auditor's budget

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County Auditor's Ineligible Deductions Fund

- This fund is separate from the general fund and is a special revenue fund
- The year end cash balance carries forward to the next year
- The appropriation balances only carry forward if legally encumbered at year end

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Collection of the Additional Tax & Civil Penalty

- If collected within 30 days of county auditor's notice, then
  - The additional tax collected is quietus to the County Auditor's Ineligible Deductions Fund
  - 99% of the civil penalty collected is quietus to the County Auditor's Ineligible Deductions Fund
  - 1% of the civil penalty collected is quietus to the DLGF Homestead Property Database Fund

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Collection of the Additional Tax & Civil Penalty

- If not collected in full within 30 days of county auditor's notice, then
  - The uncollected additional tax and civil penalty is added to a separate section of the tax duplicate (special assessments section)
  - Suggested title of the separate section of the tax duplicate is "Ineligible Standard Deduction"

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Collection of the Additional Tax & Civil Penalty

- The amount added to the "Ineligible Standard Deduction" section of the tax duplicate is collected in the same manner as other property taxes
  - Collected by county treasurer
  - Tax statement issued
  - Eligible for late payment penalties at the next regularly schedule tax due date, if the next tax due date is at least 15 days after the tax statement is issued
  - Non-payment can cause property to be eligible for tax sale

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Collection of the Additional Tax & Civil Penalty

- When the tax duplicate "Ineligible Standard Deduction" tax and/or civil penalty amount is collected by the county treasurer, then
  - The tax amount is receipted to the Other Sources Section of the Cash Book to a new line labeled "Ineligible Standard Deduction - Tax Collection"
  - The civil penalty amount is receipted to the Other Sources Section of the Cash Book to a new line labeled "Ineligible Standard Deduction – Civil Penalty Collection"

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Additional Tax & Civil Penalty – Settlement Procedure

- At Settlement the county treasurer will certify in the Other Collections Section of the Form 49TC
  - The Ineligible Standard Deduction - Tax Collection amount
  - And the Ineligible Standard Deduction – Civil Penalty Collection amount
  - The amounts certified will be the amounts that are on each of those lines in the Other Sources Section of the Cash Book

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Additional Tax & Civil Penalty – Settlement Procedure

- At Settlement the county auditor will quietus to the County Auditor's Ineligible Deductions Fund
  - The Ineligible Standard Deduction - Tax Collection certified amount
  - And 99% of the Ineligible Standard Deduction – Civil Penalty Collection certified amount

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Additional Tax & Civil Penalty – Settlement Procedure

- At Settlement the county auditor will quietus to the DLGF Homestead Property Database Fund
  - 1% of the Ineligible Standard Deduction – Civil Penalty Collection certified amount
  - The county auditor will remit to the state auditor the total amount in the DLGF Homestead Property Database Fund including the amount quietus to the fund at the current Settlement

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Late Payment Penalty on Additional Tax & Civil Penalty

- Once the unpaid additional tax and civil penalty is added to the "Ineligible Standard Deduction" section of the tax duplicate and billed on a tax statement, then the unpaid additional tax and civil penalty is eligible for late payment penalties
- The late payment penalties are applied against the unpaid balance at each scheduled tax due date
- Unless the next scheduled tax due date is less than 15 days after the unpaid tax and penalty is added to the tax duplicate

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Late Payment Penalty on Additional Tax & Civil Penalty

- The late payment penalties are added to the property parcel in the Real Estate section of the tax duplicate that is associated to the unpaid tax in the Ineligible Standard Deduction section of the tax duplicate
- The late payment penalties are distributed to taxing units at settlement
- The late payment penalties are not receipts to the County Auditor's Ineligible Deductions Fund or the DLGF Homestead Property Database Fund

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