

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All County Auditors and Assessors

FROM: Micah G. Vincent, Commissioner *MGV*

RE: Changes Affecting the 1% Tax Cap and Homestead Deduction Non-Reverting Fund

DATE: June 20, 2013

On May 11, 2013, Governor Mike Pence signed into law Senate Enrolled Act 517 ("SEA 517"). Sections 28 and 31 make changes affecting the 1% tax cap and the non-reverting fund used to hold taxes and penalties resulting from improper homestead deductions or credits. Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

Section 28 amends IC 6-1.1-20.6-2 so that for purposes of the tax caps, "homestead" refers to a homestead that **has been granted a homestead deduction** under IC 6-1.1-12-37. This amendment overturns a recent Indiana Board of Tax Review decision holding that property merely *eligible* for a homestead deduction is entitled to the 1% tax cap. This amendment was effective upon passage of SEA 517.

Section 31 amends IC 6-1.1-36-17 so that upon collection of the adjustment in tax due (and any interest and civil penalties on that amount) after the termination of a homestead deduction or credit, the county treasurer must deposit that amount in a non-reverting fund if the county contains a consolidated city or, if the county does not contain a consolidated city:

- (A) in the nonreverting fund, to the extent that the amount collected, after deducting the direct cost of any contract, including contract related expenses, under which the contractor is required to identify homestead deduction eligibility, does not cause the total amount deposited in the nonreverting fund for the year during which the amount is collected to exceed \$100,000; or
- (B) in the county general fund, to the extent that the amount collected exceeds the amount that may be deposited in the nonreverting fund under paragraph (A) above.

Any part of the amount that is not collected by the due date must be placed on the tax duplicate for the affected property and collected in the same manner as other property taxes. The adjustment in tax due (and any interest and civil penalties on that amount) after the termination of a deduction or credit must be deposited as specified only in the first year in which that amount is collected. The amount to be deposited in the nonreverting fund or the county general fund includes adjustments in the tax due as a result of the termination of deductions or credits

available only for property that satisfies the eligibility for a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9, including the following:

- (1) Supplemental deductions under IC 6-1.1-12-37.5;
- (2) Homestead credits under IC 6-1.1-20.4, IC 6-3.5-1.1-26, IC 6-3.5-6-13, IC 6-3.5-6-32, IC 6-3.5-7-13.1, or IC 6-3.5-7-26, or any other law;
- (3) Circuit breaker credits under IC 6-1.1-20.6-7.5 or IC 6-1.1-20.6-8.5.

Any amount paid that exceeds the amount required to be deposited must be distributed as property taxes. Money that is deposited must be treated as miscellaneous revenue. Distributions must be made from the nonreverting fund upon appropriation by the county fiscal body and must be made only for the following purposes:

- (1) Fees and other costs incurred by the county auditor to discover property that is eligible for a standard homestead deduction or a homestead credit.
- (2) Other expenses of the office of the county auditor.
- (3) The cost of preparing, sending, and processing notices described in IC 6-1.1-22-8.1(b)(9).

The amount of deposits in a reverting fund, the balance of a non-reverting fund, and expenditures from a reverting fund may not be considered in establishing the budget of the office of the county auditor or in setting property tax levies that will be used in any part to fund the office of the county auditor.

The Department of Local Government Finance notes that nothing in Section 31 prohibits carrying forward a balance in the non-reverting fund. However, there is a limitation on receipts to be deposited in the fund each year for counties that do not contain a consolidated city. In order to properly deposit and comply with this limit, if applicable, the county should review the receipt amount for the calendar year each time a deposit to the non-reverting fund is to be made. The annual receipt amount net of contract costs to identify homestead deduction eligibility must not exceed \$100,000. Any additional collections in a calendar year must be deposited into the county general fund. As the effective date for this statutory change is July 1, 2013, at the point in time after June 30, 2013 that this net receipt amount equals \$100,000 for the year, any additional collections that calendar year must be deposited into the county general fund.

Questions may be directed to Staff Attorney Mike Duffy at (317) 233-9219 or mduffy@dlgf.in.gov.