# Fall Auditor's Conference
# Questions for the Department of Local Government Finance
# October 28, 2008

**1. Question: A taxpayer moves into an apartment. She still owns a home with homestead and age deductions. When do the deductions come off? Would that be the same case if a mortgage deduction also was on the property?**

*Answer:* The credit/deductions should be removed on the date the owner of the property no longer meets eligibility requirements for the deduction(s) or homestead credit she is receiving for that assessment year. In the example above, the taxpayer who owned the homestead on March 1, 2008, moved into an apartment later in 2008, but kept the house she once used as the homestead would lose her eligibility on the homestead credit/standard deduction for pay-2009, because the home is no longer a "homestead" -- it is no longer the taxpayer's principal place of residence.

If the current owner sells the home, the "carry over" provision will "carry over" one of the original deductions to the new owner if the new owner is eligible to receive that deduction on the next succeeding assessment date. It is important to keep track of the deduction(s)/credit on the property and which may "carry over" to a new owner.

For example, for Mr. Jones (new owner) to receive the homestead deduction for pay-2009 he can either apply for the deduction/credit on or before December 31, 2008; *or* receive the standard deduction through the "carry over" provision from the previous eligible owner so long as Mr. Jones is eligible to receive the homestead standard deduction on March 1, 2009 -- the next succeeding assessment date.

**2. Question: A property owner has deductions. The owner sells this property and does not re-file deductions on another property. Do those deductions of sold property stay on for the following year or are they to be removed?**

*Answer:* The deductions should be removed once the owner of the property no longer meets the eligibility requirements for the deduction(s).

**3. Question: If a married couple owns 2 or more parcels, are they able to file a homestead on both parcels? Are individuals – unmarried – who own 2 or more parcels jointly able to file homesteads individually on separate parcels?**

*Answer:* No. Beginning with property taxes due and payable in 2009, the county auditor is prohibited from granting an individual *or* married couple a homestead credit/standard deduction if:

(1) for the same year, the individual *or* married couple claims the homestead credit/standard deduction on two (2) or more different deduction application; and

(2) the applications claim the homestead credit/standard deduction for different property. IC 6-1.1-12-37.

**4. Question: If a taxpayer has a mobile home, which will be assessed as personal property on January 15, and he owns the land the mobile home sits on, does he receive the homestead on the land and the mobile home or does he receive the homestead on the mobile home only?**

*Answer:* If the taxpayer is eligible to receive the homestead credit/standard deduction, the taxpayer can receive the homestead on the land *and* the personal property mobile home. For example, the taxpayer is eligible to receive a homestead credit/standard deduction for a personal property mobile home, so long as:

(1) the dwelling (i.e., personal property mobile home) is his principal place of residence;

(2) the principal place of residence is located in Indiana; and

(3) he owns (or is buying under a recorded contract) the personal property mobile home and the immediately surrounding real estate (up to one (1) acre). IC 6-1.1-20.9-1 (repealed 1/1/2009); IC 6-1.1-12-37 (effective 1/1/2009).

**5. Question: For taxes due and payable in 2008, a taxpayer is buying his house on contract. He is in the third year of the contract and was not aware that he could file for a mortgage deduction and homestead. On March 11, 2007, he recorded the contract and filed for the mortgage deduction and homestead. The deduction filing deadline was extended to October 15, 2007. What about the March 1 assessment date? He has owned the property (via contract) for three years. For 2007-pay-2008, do we consider the recorded date by March 1? Would the deductions be applied for 2007-pay-2008 or does the taxpayer have to wait until 2008-pay-2009?**

*Answer:* This question is to be answered under the "old" law (pre-HEA 1001 and pre-HEA 1293). IC 6-1.1-20.9-1(1)(2)(B)(ii). There is a difference between buying a homestead under a *land contract*, and actually owning the homestead, as represented by a *deed*. The homestead deduction/credit law specifically requires a land contract be recorded in the county recorder's office to be eligible for the homestead credit/standard deduction, and that such contract specify that the individual is to pay the property taxes on the homestead.

Under the facts above, if the land contract was not recorded until March 11, 2007, it is on March 11, 2007 that the applicant becomes eligible to receive the homestead credit/standard deduction. Under the "old" law, the applicant was required to own or be buying the homestead under a recorded contract on March 1, 2007 in order to receive the homestead credit/standard deduction for 2007-pay-2008. As a result, under these facts, the taxpayer will not receive the homestead credit/standard deduction until his 2008-pay-2009 property taxes because the land contract was not recorded on March 1, 2007.

**6. Question: When a trust is involved, does one of the parties have to live in the property to receive the homestead credit/standard deduction?**

*Answer:* Generally speaking, the individual-applicant for the homestead standard deduction/credit must live in the house. However, there may be circumstances where the individual-applicant is temporarily in a nursing home or long-term care facility but fully intends to return to the house when fully recuperated. In instances such as these where the house is still maintained as a home and the individual intends to return to the house, err on the side of benefitting the taxpayer and grant the homestead standard deduction/credit.

A non-individual taxpayer, like a trust, is entitled to the homestead credit/standard deduction if:

(1) an individual uses the residence as a principal place of residence;
(2) the residence is located in Indiana;

(3) the individual:

(A) has a "beneficial interest" in the taxpayer; or

(B) has the right to occupy the residence rent free under the terms of a qualified personal residence trust (QPRT) created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and

(5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling. IC 6-1.1-20.9-2.

**7. Question: Is someone applying for the over-65 deduction required to have lived on the property for at least one year under IC 6-1.1-12-9? At a recent meeting, some were talking about putting the over-65 deduction on a new property and still allowing the taxpayer to receive the deduction on the old property. What is correct?**

*Answer:* Despite the changes to the law in 2008, for the over age 65 deduction, it is still a requirement that in order to receive the over 65 deduction the individual must own the real property, mobile home, or manufactured home for at least one (1) year before claiming the over 65 deduction.

**8. Question: If deductions now are being applied for 2008-pay-2009, should deductions the taxpayer is not eligible for come off for 2008-pay-2009? For example, an individual purchased a property that had a veteran deduction. The new owner is not eligible, and previous owner could apply for the deduction on his new property. Could there be two veteran deductions?**

*Answer:* Deductions for which the taxpayer is not eligible should come off. The new owner did not file for the veteran's deduction nor is he eligible for the veteran's deduction on or before December 31, 2008. Additionally, the previous owner's veteran's deduction will not "carry over" and benefit the new owner for pay-2009 because the new owner is not eligible for the veteran's deduction on the next succeeding assessment date of March 1, 2009.

**9. Question: Are all deductions filed before December 31, 2008 applied to 2008-pay-2009 property tax bills or just homestead and geothermal deductions?**

*Answer:* All deductions for which an individual applies for and is deemed eligible for on or before December 31, 2008 will be applied to his 2008-pay-2009 property tax bill. IC 6-1.1-12-45(d). Remember: the key is the individual-applicant be eligible for the particular deduction.

**10. Question: If township trustees and assessors are no longer doing any assessing or are not certified, do they continue to receive pay? We have heard this issue is under litigation, and we need to continue to pay these salaries.**

*Answer:* This question was addressed by the Office of the Indiana Attorney General and the Department of Local Government Finance in two separate memoranda on May 9, 2008. The current 2008 salaries of elected township assessors and trustee-assessors whose duties transferred to the county assessor on July 1, 2008 cannot be increased or decreased. However, for the 2009 budget year and beyond, it is up to each county council to determine compensation (i.e., salary and benefits) for those assessing officials.

Office of the Indiana Attorney General Memoranda:
http://www.in.gov/dlgf/files/Memo-OfficialOpinion_2008-2_HEA1001andTransferofAssessorDuties.pdf

Department of Local Government Finance Memoranda:
http://www.in.gov/dlgf/files/Memo-HEA1001andTransferofAssessingDuties.pdf

**11. Question: HEA 1293 (P.L. 144-2008) states that the Auditor should keep the original sales disclosure form. HEA 1001 (P.L. 146-2008) states that the Assessor should keep it. Who keeps the original sales disclosure form?**

*Answer:* The County Assessor is required to keep the original sales disclosure forms for five (5) years. IC 6-1.1-5.5-3(c). The County Auditor is required to keep the copies of each homestead credit/standard deduction application filed on the sales disclosure form and on the DLGF Form HC-10 (State Form 5473). IC 6-1.1-20.9-5(a)(repealed eff. 1/1/09).