

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Assessors and County Auditors
FROM: Barry Wood, Assessment Division Director *JBW*
RE: Homestead/Tax Cap Guidance
DATE: May 22, 2012

The Indiana Board of Tax Review ("IBTR") recently issued a final determination in an appeal involving the application of the circuit breaker ("tax cap") to a taxpayer whose property did not have the "homestead" (standard deduction) – (see http://www.in.gov/ibtr/files/Heaney_71-001-08-3-5-00001.pdf). In their ruling, the IBTR stated, "A taxpayer, however, is not required to apply for the appropriate tax cap; instead, the statute requires the county auditor to identify eligible property, and then apply the credit." The IBTR further stated, "But a homestead under the tax cap statute is simply a homestead that is 'eligible' for the standard deduction, not a homestead that is the subject of an application for, or that has been granted the standard deduction." The IBTR, therefore, found the taxpayer's homesite and improvements met the definition of a homestead for purposes of applying the credit provided in IC 6-1.1-20.6-7(a)(1), and that the credit had to be applied in determining the tax bill. The Board did recognize that a county auditor has no way of knowing whether a taxpayer uses a given property for his or her principle residence unless the taxpayer affirmatively shows that fact, such as when the taxpayer applies for a standard deduction.

Therefore, based on the IBTR's ruling, property may receive the 1% tax cap if it is the owner's principal place of residence, even though the owner/taxpayer failed to file a homestead standard deduction application.

Please disregard guidance issued by the Department of Local Government Finance (see http://www.in.gov/dlgf/files/2010pay2011_Deductions_and_Credits_Fact_Sheet.pdf) that stated that in order to receive the homestead tax cap (1% cap); the taxpayer would have had to apply for and received the homestead (standard) deduction.

If you have any questions, please contact Barry Wood at (317) 232-3762 or bwood@dlgf.in.gov.