

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition No.:** 29-013-17-1-5-00635-18  
**Petitioner:** Jeffrey F. Heuser  
**Respondent:** Hamilton County Assessor  
**Parcel No.:** 29-06-14-302-004.000-013  
**Assessment Year:** 2017

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. The Petitioner initiated his appeal with the Hamilton County Auditor on April 19, 2018. On May 29, 2018, the Hamilton County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner relief. On June 19, 2018, the Petitioner appealed to the Board.
2. The Petitioner elected to have his appeal heard under the Board's small claims procedures and the Respondent did not object.
3. On October 17, 2018, the Board's administrative law judge (ALJ) Dalene McMillen held a hearing. Neither the Board nor the ALJ inspected the property.
4. Jeffrey Heuser appeared *pro se* and was sworn as a witness. Attorney Marilyn Meighen appeared for the Respondent. Hamilton County Auditor's office employee Lisa Scherer was sworn as a witness for the Respondent.<sup>1</sup>

**Hearing Facts and Other Matters of Record**

5. The property under appeal is a single-family home located at 411 Chris Lane in Noblesville.
6. The official record for this matter is made up of the following:
  - a. A digital recording of the hearing,
  - b. Exhibits:

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<sup>1</sup> County Assessor Robin Ward, Lisa Johnson, and Jennifer Dougherty were present but not sworn to testify.

- Petitioner Exhibit 1: Quicken Loans history of mortgage payments **(Confidential)**,
- Petitioner Exhibit 1B: Listing of mortgage payments **(Confidential)**,
- Petitioner Exhibit 2: Citizens Energy Group water bills,
- Petitioner Exhibit 3: Duke Energy electric payments,
- Petitioner Exhibit 4: Vectren Corporation natural gas payments,
- Petitioner Exhibit 5: City of Noblesville sewer and trash payments,
- Petitioner Exhibit 6: Copies of Hannah Heuser and Jeffrey Heuser’s driver’s licenses **(Confidential)**.<sup>2</sup>
- Respondent Exhibit A: “Property Tax Deductions – Notification” addressed to Jeffrey Heuser dated March 1, 2017,
- Respondent Exhibit B: Auditor’s request form for Jeffrey Heuser and Hannah Heuser’s last five digits of driver’s license numbers dated February 23, 2018, **(Confidential)**,
- Respondent Exhibit C: Sales Disclosure Form dated June 20, 2013, **(Confidential)**,
- Respondent Exhibit D: Certified mail receipt dated March 25, 2017,
- Respondent Exhibit E: Auditor’s memorandum outlining Ind. Code § 6-1.1-12-44(a) and summary of *Vanessa Purdom v. Knox Co. Ass’r*, Pet. No. 42-023-13-3-5-00001 (Ind. Bd. Tax Rev. 2015).

- c. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) these findings and conclusions.

### Summary of the Parties’ Contentions

7. Summary of the Petitioner’s case:
- a. Mr. Heuser purchased the subject property in his name only on June 7, 2013. Mr. Heuser has utilized the property as his principal place of residence with his wife Hannah since 2013. In support of his claim, Mr. Heuser provided copies of his mortgage, water, electric, natural gas, sewer and trash payments. *Heuser testimony (referencing Resp’t Ex. C); Pet’r Ex. 1, 2, 3, 4, 5.*
- b. Mr. Heuser received notification from the Auditor’s office “back in 2018” that in order to maintain his homestead deduction, he must provide “new Indiana driver’s license numbers by December 31, 2017.”<sup>3</sup> According to Mr. Heuser, he “misplaced”

<sup>2</sup> While the Petitioner did not request Petitioner’s Exhibits 1, 1B, and 6 to be marked confidential, the Board finds the information contained within these three exhibits to be confidential and therefore will treat these exhibits as confidential.

<sup>3</sup> The notification was mailed on March 1, 2017. *Resp’t Ex. A.*

the notification and failed to file the requested information until February 23, 2018. Because he missed the deadline to submit the required documentation, his homestead deduction was removed for the 2017 assessment year. *Heuser testimony (referencing Resp't Ex. B); Pet'r Ex. 6.*

8. Summary of the Respondent's case:

- a. Mr. Heuser purchased the subject property on June 7, 2013. At the time of purchase, he filed for the homestead deduction via the sales disclosure form and included his Tennessee driver's license information. The property was deeded in his name only and there was no spousal information provided on the sales disclosure form. Therefore, the form was incomplete at the time it was filed and Mr. Heuser improperly received the homestead deduction from 2013 through 2016. *Meighen argument (citing Vanessa Purdom v. Knox Co. Ass'r, Pet. No. 42-023-13-3-5-00001 (Ind. Bd. Tax Rev. 2015)); Scherer testimony; Resp't Ex. C, E.*
- b. The Auditor's office sent a "Property Tax Deduction – Notification" by certified mail to Mr. Heuser on March 1, 2017, requesting copies of his and his spouse's Indiana driver's license numbers by December 31, 2017. According to the Auditor, because Mr. Heuser initially filed for the homestead deduction with an out-of-state driver's license, he was required to update his residency in order to continue receiving the deduction. *Scherer testimony; Resp't Ex. A, C.*
- c. On February 23, 2018, Mr. Heuser filed a "driver's license verification" for both himself and his wife proving they are both Indiana residents. *Scherer testimony; Resp't Ex. B.*

#### Analysis<sup>4</sup>

9. Indiana Code § 6-1.1-12-37 provides a standard deduction from the assessed value for homesteads, which the statute defines as a dwelling that an individual owns and uses as his place of residence and up to one acre of surrounding land. I.C. § 6-1.1-12-37(a)-(c). At all times relevant to this appeal, the taxpayer had to apply for the deduction in one of two ways.<sup>5</sup> First, he could file a certified statement with the county auditor on forms prescribed by the Department of Local Government Finance (DLGF). I.C. § 6-1.1-12-37(e). The DLGF prescribed the Claim for Homestead Property Tax Standard/Supplemental Deduction Form (Form HC10) for that purpose. 50 IAC 24-4-2. A taxpayer had to complete Form HC10 within the calendar year for which the deduction was sought and file that form on or before January 5 of the immediately succeeding year.

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<sup>4</sup> Because the Petitioner's only challenge was with the homestead deduction, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden rests with the Petitioner.

<sup>5</sup> Once the auditor grants the deduction, it carries forward and taxpayers need not reapply. See I.C. § 6-1.1-27-37(e); I.C. § 6-1.1-12-17.8.

*Id.*; I.C. § 6-1.1-12-37(e). Alternatively, a taxpayer could use the sales disclosure form at the time of purchase to claim the deduction. *See Id.*; I.C. § 6-1.1-12-44.

10. There is no dispute the subject property meets the requirement to be a “homestead” as defined by Ind. Code § 6-1.1-12-37(a)(2) because it is the Petitioner’s principal place of residence. There is no dispute that the Respondent granted the homestead deduction.
11. Sometime in 2017, the Auditor decided that the homestead deduction was “inadvertently granted” from 2013 through 2016. The Auditor notified Mr. Heuser on March 1, 2017, that he was required to provide new Indiana driver’s license information for both himself and his spouse by December 31, 2017. The Auditor also informed him that failure to do so would result in the loss of his homestead deduction. The Petitioner failed to timely provide the information as requested.
12. A county auditor has the authority to determine that a homestead deduction was given in error, and then recover any taxes lost as a result of that error. *See Ind. Code § 6-1.1-12-37(f); Ind. Code § 6-1.1-36-17.* However, a taxpayer may timely appeal an auditor’s action in revoking a homestead. The Respondent has not challenged the timeliness of this appeal. It is the taxpayer’s eligibility that controls. Because the Petitioner timely filed and was granted a homestead, the Respondent’s revocation cannot stand on appeal when eligibility is conceded. The purpose of the statute is to revoke ineligible homesteads. Having proved his eligibility, the homestead deduction must be reinstated.

### **Conclusion**

13. The Board finds for the Petitioner.

### **Final Determination**

In accordance with these findings and conclusions, the Petitioner is entitled to a homestead deduction for the 2017 assessment year.

ISSUED: January 15, 2019

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>>