

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

Petition: 64-003-19-1-5-00227-20
Petitioner: Frederick R. Meyer on behalf of Trust 6-2-1962
Respondents: Porter County Assessor and Porter County Auditor
Parcel: 64-10-07-252-004.000-003
Assessment Year: 2019

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

PROCEDURAL HISTORY

1. Trust 6-2-1962 challenged the denial of its application for a 2019 homestead deduction for its property located at 3804 Pheasant Walk Drive in Valparaiso. On February 11, 2020, the Porter County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination denying the Trust’s appeal.
2. The Trust timely filed a Form 131 petition with the Board. On January 14, 2021, Ellen Yuhan, our designated administrative law judge (“ALJ”), held a telephonic hearing on the petition. Neither she nor the Board inspected the subject property.
3. Frederick R. Meyer represented the Trust. Attorney Adam Mindel represented the Assessor and the Auditor. Meyer, Porter County Auditor Vicki Urbanik, and Deputy Auditor Melanie Barancyk testified under oath.

RECORD

4. The official record for this matter contains the following:
 - a. Petitioner Exhibit A: DVD of the PTABOA hearing of February 10, 2020
 - Petitioner Exhibit B: Copy of Auditor’s Internal Computer Office Notes
 - Petitioner Exhibit C: Timeline of real estate transactions

 - Respondent Exhibit 1: Claim for Homestead Property Tax Standard/Supplemental Deduction
 - Respondent Exhibit 2: Copy of Indiana Code § 6-1.1-12-37
 - Respondent Exhibit 3: Sales Disclosure Form
 - Respondent Exhibit 4: Property Profile Report
 - Respondent Exhibit 5: Copy of Auditor’s Internal Computer Office Notes

- b. The record for the matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

OBJECTIONS

5. The Assessor/Auditor objected to Meyer's testimony that the Auditor's staff limited themselves from providing certain information to taxpayers because it might be construed as legal advice. They argued that Meyer's testimony was not relevant to the appeal. Our ALJ did not rule on the objection during the hearing. Because we find the testimony relevant, we overrule the objection.

SUMMARY OF CONTENTIONS

6. **The Trust's case:**

- a. The Trust contends that the Auditor and Assessor should have granted a homestead deduction for its property for the 2019 assessment year. The Trust applied for a homestead deduction on the sales disclosure form it filed following its purchase of the subject property on July 31, 2017. On September 5, 2017, the Trust successfully applied for a mortgage deduction, but the Auditor denied the homestead deduction because Meyer and his wife were still residing in their old house at 427 E. 725 N. *Meyer testimony; Pet'r. Exs. B, C.*
- b. Meyer argued that the Auditor's office led him to believe that the homestead deduction would automatically transfer to the subject property when he and his wife's previous residence sold in the spring of 2018. The Auditor also informed him that the subject property would receive the carry-over homestead deduction for 2017/2018 from the prior owner. Meyer later learned that the Assessor and Auditor did not automatically apply the homestead deduction to the subject property for the 2019 assessment year. He then signed an HC10 form and filed it with the Auditor on May 17, 2019. *Meyer testimony; Pet'r. Exs. B, C.*
- c. Meyer thinks he received poor service and vague instructions when he went to the Auditor's office in 2017 to apply for the homestead deduction. At the PTABOA hearing, he learned that the Auditor's staff was fearful of providing any information they believed could be construed as legal advice. Had the person he interacted with been clearer, Meyer would have filed an application earlier. He also felt the PTABOA hearing was a sham and the end result incorrect because the Auditor did not make a prima facie case as indicated on the PTABOA determination. *Meyer testimony; Pet'r. Ex. A.*

7. **The Assessor's case:**

- a. The Assessor argued that a homestead deduction is never automatically transferred over from one property to another unless the correct application form is timely filed, reviewed, and proof of residency is established. Here, the Trust did not file for the 2019 homestead deduction until May 17, 2019, which was long after the January 5, 2019 deadline. *Barancyk testimony; Resp't Exs. 1, 5.*
- b. The law is clear and unambiguous. A taxpayer who wants to claim the homestead deduction must file a certified statement with the county auditor on the form prescribed by the Department of Local Government Finance—the Form HC10. The form must be filed on or before January 5 of the immediately succeeding calendar year. Since the Trust did not file its Form HC10 until May 17, 2019, it filed too late. The Trust's argument that it misunderstood is not sufficient to overcome the unambiguous statutory requirement that the Form HC10 must be filed on or before January 5, 2019 to qualify for the 2019 homestead deduction. *Barancyk testimony; Resp't Brief; Resp't Exs. 1, 5.*

ANALYSIS

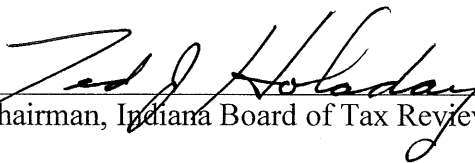
8. Ind. Code § 6-1.1-12-37 provides a standard deduction from the assessed value for homesteads, which the statute defines (as relevant here) as a dwelling and up to one acre of surrounding real estate that is owned by a trust and occupied by an individual that uses it as his or her principal place of residence. Ind. Code § 6-1.1-12-37 (a)-(c); *see also* Ind. Code § 6-1.1-12-17.9.
9. In this case, the Assessor and Auditor do not dispute the Trust's eligibility to receive the homestead deduction for the 2019 assessment year. They instead argue that the Trust is not entitled to the homestead deduction because it failed to timely claim the deduction by filing a Form HC10 with the Auditor before the deadline set by Ind. Code § 6-1.1-12-37(e).
10. To claim the homestead deduction, taxpayers have to apply for it in one of two ways. One of those ways is to file a certified statement with the county auditor on the Form HC10 prescribed by the Department of Local Government Finance. Ind. Code § 6-1.1-12-37(e); 50 IAC 24-4-2. Taxpayers have to complete Form HC10 within the calendar year for which the deduction is sought and file it on or before January 5 of the immediately succeeding year. Ind. Code § 6-1.1-12-37(e). Thus, to use a Form HC10 to claim the deduction for the January 1, 2019 assessment date at issue here, taxpayers had to complete the form on or before December 31, 2019 and file it with the county auditor on or before January 5, 2020.
11. The Assessor and Auditor submitted the Trust's Form HC10 into evidence. It demonstrates that the Trust applied for the homestead deduction for the 2019 pay 2020

assessment year¹ on May 17, 2019, which is within the 2019 calendar year and well before the applicable January 5, 2020 deadline. Because the Trust timely filed its Form HC10, we conclude that it is entitled to receive the homestead deduction for the January 1, 2019 assessment date.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we find that Trust 6-2-1962 is entitled to the homestead deduction for the 2019 assessment year.

ISSUED: APRIL 14, 2021


Chairman, Indiana Board of Tax Review


Commissioner, Indiana Board of Tax Review


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>.

¹ In Indiana, property taxes are due and payable in two (2) equal installments on May 10 and November 10 of the year following an assessment. Ind. Code § 6-1.1-22-9(a).