



## **New/Not New Legislation and Deductions/Exemptions**

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## **Disclaimer**

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This presentation and other Department of Local Government Finance materials are not a substitute for the law! This is not legal advice, just an informative presentation. The Indiana Code always governs.

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## Overview

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- Introduction
- Enacted Legislation
- HB 1104 – 2018
- Deductions – The Universe
- Less Common Deductions
- Questions

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## Introduction

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# 2018 Legislation

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## 2018 Legislation

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### HEA 1323 - 2018

- IC 6-6-15 - Heavy Equipment Rental Excise Tax (new section)
  - Effective January 1, 2019
  - **Heavy Rental Equipment Defined:**
    - Personal property
      - Owned by a person or business
      - Not intended on being affixed to real property
      - Not for use on a public highway (IC 9-18.1)
    - Does not include:
      - Equipment rented for mining purposes or is eligible for a property tax abatement deduction under IC 6-1.1-12.1

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## 2018 Legislation

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### HEA 1323 – 2018 (cont'd)

- Starting with the 2019 assessment date, heavy rental equipment subject to the excise tax is not subject to assessment and taxation.
- Revenue from the tax to be deposited in heavy equipment rental excise tax account.
- The county auditor will apportion the funds in the same manner that property taxes are apportioned and distributed based on location where the tax is sourced.

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## 2018 Legislation

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### HEA 1141-2018

- Funding for Community Mental Health Centers (CMHC)
- Effective January 1, 2019
- Changes funding formula in IC 12-29-2-2
  - If the county's 2017 general fund levy is greater than its 2018 general fund levy, after accounting for circuit breaker credits, the CMHC appropriation for 2019 will have no adjustment from the 2018 amount.
  - If the county's 2018 general fund levy is greater than its 2017 general fund levy after accounting for circuit breaker credits, the CMHC appropriation for 2019 will have an adjustment equal to the growth in the amount from 2017 to 2018.
- Marion County will have a three-year phase-in.

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## 2018 Legislation

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### HEA 1141-2018

- CMHCs will receive funding based on their population compared to the county and must be certified by the division of mental health and addiction.
- The Treasurer will pay the CMHCs directly at least twice a year (July and December).

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## 2018 Legislation

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### HEA 1263-2018

- County Jail Tax Rate
- See most recent DLGF memo
- Maximum expenditure rate under IC 6-3.6-6-2 is not affected.
- Always adopted by County Council
- Local Income Tax Council County or County Council?
- Always have DLGF perform its statutory review!

### Local Income Tax Council County

- The ordinance adopted by the County Council will always increase the overall expenditure rate by the amount of the adopted county jail tax rate.
- Unless, the adopted county jail tax rate would put the overall expenditure rate above the maximum allowable total expenditure rate.

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## 2018 Legislation

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HEA 1263-2018

County Council Only

- Local ordinance should state 1) whether the rate is included in or outside of the current expenditure rate, and 2) how to reduce the other components of the expenditure rate.
  - If the ordinance is not clear, DLGF will assume that the county's intent was increase the overall expenditure rate by the amount of the adopted county jail tax rate.
- Recommend that LIT ordinances state the overall expenditure rate and rates for each component when adopting.

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## House Bill 1104 - 2018

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## HB 1104 - 2018

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### DLGF Agency Bill

- Dead Bill – **THIS IS NOT CURRENT LAW!!**
- Contents to be aware of for 2019 – DLGF
  - County auditors submit property tax settlement and distribution information to the DLGF by July 31 (spring settlement) and January 31 (fall settlement).
  - Amends the definition of "owner" (for purposes of the property tax statutes) to delete the provision specifying that an owner of tangible property includes the holder of a tenancy for a term of years (e.g., lessees).
  - Political subdivisions must include in the Gateway Form 3 information concerning the percentage change between the current and proposed tax levies of each fund.

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## HB 1104 - 2018

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- A person seeking a property tax exemption for property under IC 6-1.1-10-16 may file an exemption application up to 30 days following the April 1 application deadline if the person pays a late filing fee.
- County auditors must submit data on deductions applicable to the current tax year to the homestead property data base on or before March 15 of each year, in a manner prescribed by the DLGF.
- Repeals the statute providing for a county board of tax adjustment. Deletes references throughout the IC to the county board of tax adjustment. Largely a technical correction, as no county boards of tax adjustment exist.
- A political subdivision shall file the Form 4 with the DLGF under IC 6-1.1-17-5 not later than five business days after the budget is due.
- The DLGF may adopt rules for procedures related to local government budgeting. Specifies that the adoption, amendment, or repeal of such a rule by the DLGF may not take effect before March 1 or after July 31 of a particular year.

**THIS IS NOT CURRENT LAW!!**

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## HB 1104 - 2018

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- For purposes of attributing the amount of a property tax deduction or exemption to a property in tax and billing systems:
  - (1) a deduction or exemption that is specific to an improvement shall be applied only to the assessed value allocation pertaining to that improvement; and
  - (2) to the extent that a deduction or exemption is not specific to an improvement; the deduction or exemption shall be applied in the order that will maximize the benefit of the deduction or exemption to the taxpayer.
- For TIF districts and other allocation areas, the base assessed value for tax increment financing purposes includes the net residential assessed value within the allocation area, as finally determined for the current assessment date.

**THIS IS NOT CURRENT LAW!!**

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## HB 1104 - 2018

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- Contents to be aware of for 2019 – Other
  - If a political subdivision publishes or submits to Gateway a notice (e.g., Form 3) that contains an error or omission that inaccurately reflects the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision by an amount that is less than 0.25%, the notice is a valid notice and the DLGF shall correct the error or omission. (See IC 5-3-1-2.3.)
  - Allows the DLGF to adopt rules for the appraisal of real property at any time after a reassessment cycle begins, but will not go into effect until the next reassessment phase.

**THIS IS NOT CURRENT LAW!!**

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## HB 1104 - 2018

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- Regarding the Under \$20,000 Business Personal Property exemption (IC 6-1.1-3-7.2):
  - If a business is exempt they must state on their return the address of the personal property.
  - If a county chooses to implement a local service fee on the taxpayer claiming a deduction, it should only be applied in the tax district in which the majority value of the taxpayer's personal property is located within the county.
  - A taxpayer may be charged only one local service fee per county.
  - If a penalty is imposed on a taxpayer for failing to declare on the taxpayer's tax return that the taxpayer is entitled to the exemption, the county shall include the penalty on a property tax bill associated with the tax district in which the majority value of the taxpayer's business personal property within the county is located. (See IC 6-1.1-37-7(f))
  - Further guidance to follow from the AOS, DLGF, and SBOA.

**THIS IS NOT CURRENT LAW!!**

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## HB 1104 - 2018

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- Eliminates (effective retroactive to July 1, 2017) several property tax deduction and credit reapplication requirements that were added by HEA 1450-2017 concerning unmarried taxpayers who married, married taxpayers who divorced, and taxpayers who came to own their property jointly or as tenants in common with another individual. (See IC 6-1.1-12-17.8.)
- A county fiscal body may establish a salary schedule that includes greater compensation for the presiding officer or secretary of the county fiscal body or county executive taking on additional duties or attending additional meetings.

**THIS IS NOT CURRENT LAW!!**

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## HB 1104 - 2018

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- An individual elected to certain county offices must take a newly elected official training course before the individual first takes the office.
  - The newly elected official training course counts toward the individual's other elected official training requirements .
  - Money in the county elected officials training fund may be used to provide:
    - travel, lodging, and related expenses associated with any training paid for from the fund; and
    - training of one or more designees of a county elected official if sufficient funds are appropriated by the county fiscal body.
  - Money in this fund may be used for the newly elected official training course expenses.

**THIS IS NOT CURRENT LAW!!**

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## HB 1104 - 2018

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- The legislative council is urged to assign to the appropriate interim study committee the task of studying replacement of the local income tax law under IC 6-3.6-6 with a new local income tax law that would include the following local income tax provisions:
  - Authorizing counties, municipalities, and school corporations to each enact a property tax relief tax rate .
  - Authorizing counties, municipalities, and school corporations to each enact an expenditure rate. Maintaining the local income tax special purpose rates but providing that a political subdivision may not pledge any tax revenue received under the new local income tax law for debt payments except under a special purpose rate.
  - The legislative council is urged to assign to an appropriate interim study committee the task of studying the issue of whether property taxes imposed due to a referendum should be eligible for local income tax property tax relief credits.

**THIS IS NOT CURRENT LAW!!**

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# Deductions

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## Deductions - Universe

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- Veteran's Deductions
  - Partially Disabled Veterans - IC 6-1.1-12-13, 15
  - Totally Disabled Veterans - IC 6-1.1-12-14, 15
  - Surviving Spouse of World War I Veteran - IC 6-1.1-12-16, 17
  - World War I Veterans - IC 6-1.1-12-17.4, 17.5
- Enterprise Zone Investment Deduction – IC 6-1.1-45
- Economic Revitalization Area Deduction – IC 6-1.1-12.1-4.5
- Heritage Bar Deduction – IC 6-1.1-12-26.2
- Residence in Inventory Deduction – IC 6-1.1-12.8
- Model Residence Deduction – IC 6-1.1-12.6
- Fertilizer and Pesticide Storage Deduction – IC 6-1.1-12-38
- Blind or Disabled Deduction – IC 6-1.1-12-11, 12
- Over 65 Deduction – IC 6-1.1-12-9 through 10.1

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## Deductions - Universe

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- Energy Systems Deductions
  - Solar Energy Heating or Cooling System Deduction – IC 6-1.1-12-26, 27.1
  - Solar Power Device Deduction – IC 6-1.1-12-26.1, 27.1
  - Wind Powered Device Deduction – IC 6-1.1-12-29, 30
  - Hydro-electric Power Device Deduction – IC 6-1.1-12-33, 35.5
  - Geothermal Energy Heating or Cooling Device Deduction – IC 6-1.1-12-34, 35.5

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## Deductions - Universe

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- Rehabilitation & Economic Revitalization Area Deductions
  - Rehabilitated Residential Property Deductions – IC 6-1.1-12-18 through 21
  - Rehabilitated Property Deductions – IC 6-1.1-12-21 through 24
  - Economic Revitalization Area for Real Property Deduction – IC 6-1.1-12.1-4
  - Economic Revitalization Area for Real Property in a Residentially Distressed Area Deductions – IC 6-1.1-12.4-4.1
- Mortgage Deduction – IC 6-1.1-12-1 through 7
- Homestead Standard Deduction – IC 6-1.1-12-37
- Supplemental Homestead Deduction – IC 6-1.1-12-37.5

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## Deduction for Veterans with Partial Disability

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### IC 6-1.1-12-13

- An individual may have **\$24,960** deducted from the assessed value of the taxable tangible property that the individual owns, or real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property that the individual is buying under a contract (the contract or a memorandum of the contract must be recorded in the county recorder's office) if ...

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## Deduction for Veterans with Partial Disability

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- 1) the individual served in the military or naval forces of the United States during any of its wars;
- 2) the individual received an honorable discharge;
- 3) the individual has a disability with a service connected disability of 10% or more;
- 4) the individual's disability is evidenced by:
  - (A) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs; or
  - (B) a certificate of eligibility issued to the individual by the Indiana Department of Veterans' Affairs ("IDVA") after IDVA has determined that the individual's disability qualifies the individual to receive a deduction; and
- 5) the individual:
  - (A) owns the real property, mobile home, or manufactured home; or
  - (B) is buying the real property, mobile home, or manufactured home under contract;  
on the date the deduction application is filed.

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## Deduction for Veterans with Partial Disability

- A person who receives this deduction may not receive the deduction provided by IC 6-1.1-12-16, which is the deduction for the surviving spouse of a World War I veteran.
- An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim this deduction against that real property, mobile home, or manufactured home.

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## Deduction for Totally Disabled Veteran or Partially Disabled Veteran Age 62 and Over

### IC 6-1.1-12-14

- An individual may have the sum of \$12,480 deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if ...

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## Deduction for Totally Disabled Veteran or Partially Disabled Veteran Age 62 and Over

- (1) the individual served in the military or naval forces of the United States for at least 90 days;
- (2) the individual received an honorable discharge;
- (3) the individual either:
  - (A) has a total disability; or
  - (B) is at least 62 years old and has a disability of at least 10% (need not be service-connected);
- (4) the individual's disability is evidenced by:
  - (A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or
  - (B) a certificate of eligibility issued to the individual by the IDVA after it has determined that the individual's disability qualifies him or her to receive this deduction; and
- (5) the individual:
  - (A) owns the real property, mobile home, or manufactured home; or
  - (B) is buying the real property, mobile home, or manufactured home under contract;  
on the date the deduction application is filed.

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## Deduction for Totally Disabled Veteran or Partially Disabled Veteran Age 62 and Over

- No one is entitled to this deduction if the assessed value of the individual's real property, mobile home, or manufactured home, as shown by the tax duplicate, exceeds \$175,000.
- An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim this deduction.

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## Applying for the Veterans Deductions

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### IC 6-1.1-12-15

- An individual who desires to claim the partially or totally disabled veteran deductions must file a statement with the auditor of the county in which the individual resides (more appropriately, the individual should apply to the auditor of the county in which the property is located). Application should preferably list all of the vet's Indiana property.
- With respect to real property, the statement must be completed and signed on or before December 31 and filed or postmarked on or before the following January 5.
- With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the 12 months before March 31 of each year for which the individual wishes to obtain the deduction.
- The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement must contain a sworn declaration that the individual is entitled to the deduction.

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## Applying for the Veterans Deductions

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- In addition to the statement, the individual shall submit to the county auditor for the auditor's inspection:
  - (1) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs if the individual claims the partially disabled veteran deduction;
  - (2) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs if the individual claims the totally disabled veteran; or
  - (3) the appropriate certificate of eligibility issued to the individual by IDVA if the individual claims either deduction.
- If the individual claiming the deduction is under guardianship, the guardian shall file the statement.
- The statement must contain the record number and page where the contract or memorandum of the contract is recorded, if applicable.

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## Surviving Spouses

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- The surviving spouse of a veteran may receive these deductions if the veteran satisfied the eligibility requirements of these deductions at the time of his or her death and the surviving spouse owns or is buying the property under contract at the time the deduction application is filed. The surviving spouse is entitled to the deduction regardless of whether the property for which the deduction is claimed was owned by the deceased veteran or the surviving spouse before the deceased veteran's death.
- If a deceased veteran's surviving spouse is claiming a veteran deduction, the surviving spouse shall provide the documentation necessary to establish that at the time of death the deceased veteran satisfied the requirements of IC 6-1.1-12-13 or IC 6-1.1-12-14, whichever applies.

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## Veteran's Deduction Question

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- *Under the old law the AV max for disabled Vet deduction was around \$143,000. Now it is \$175,000 for AV. Does the old application qualify them for \$175,000 AV or will they need to refile?*
- IC 6-1.1-12-17.8 provides for any of the veteran's deductions, among others, to be carried over to the following assessment date if the taxpayer remains eligible for that deduction. If a taxpayer was eligible for the veteran's deduction (under IC 6-1.1-12-14) when the AV cap was set at \$143,160, then as long as the property's AV remains below the new threshold of \$175,000 and the taxpayer is otherwise eligible to keep the deduction, then the taxpayer does not need to refile.

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## Veteran's Deduction Question

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- *If there is one property that is jointly owned by two brothers in which both are disabled, do they both receive the disabled deduction?*
- What if they both are veterans, do they receive two veterans deductions on their tax bill? The disabled deduction, unlike the homestead deduction or the mortgage deduction, is tied to the individual and not the property. Hence, two individuals that jointly own property may each receive a disabled deduction and apply it to that property. Similarly, because the veteran's deduction is tied to the individual and not the property, two individuals that jointly own property may each receive a disabled deduction and apply it to that property.

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## Veteran's Deduction Question

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- *A taxpayer is a veteran and sold her house to her grandson on contract. Should the auditor remove the veteran's deduction?*
- Assuming the deduction was validly in place for the assessment date, it should remain on for that assessment date. Unless the new owner can show eligibility for the deduction, then it should come off for the following assessment date.

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## Over 65 Deduction

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- Lesser of one-half of the **gross** AV of the property or \$12,480. This deduction can zero out a bill.
- Applicant must have owned (or have been buying) the property for at least one year before claiming the deduction;
- Applicant and any joint tenants or tenants in common must reside on the property;
- Combined, adjusted gross income of applicant and applicant's spouse or applicant and any joint tenants or tenants in common for preceding year did not exceed \$25,000;
- AV of property cannot exceed \$182,430;

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## Over 65 Deduction

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- Applicant must be at least 65 by December 31 of the year preceding the year in which the deduction is claimed (in other words, must be at least 65 by December 31, 2017 to receive the deduction for '17 Pay '18);
- The **same person** cannot have the over 65 deduction in conjunction with deductions other than the homestead, mortgage, and fertilizer storage deductions;
- The deduction cannot be denied on the basis that the recipient is away from the property while in a hospital or nursing home;
- If any joint tenants or tenants in common are not at least 65, the deduction is reduced by a fraction.

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## Over 65 Question

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- *Applicant was over 65 and signed the form. There is a spouse. The applicant is now deceased. Do we remove the deduction?*
- A surviving spouse is entitled to an Over 65 deduction under IC 6-1.1-12-9(f) if (1) the surviving spouse is at least 60 years old on or before December 31 of the year preceding the year the deduction is claimed; (2) the deceased spouse was at least 65 years old at the time of death; (3) the surviving spouse has not remarried; and (4) the surviving spouse otherwise fulfills all other requirements of the deduction. However, the surviving spouse must still apply for the deduction. If the deceased spouse died after January 1, the deduction remains on the property until the next assessment date. The surviving spouse must file for the deduction for the next assessment date. If the deceased spouse died on January 1, the surviving spouse would have to timely file for that assessment date to retain the deduction.

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## Over 65 Question

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- *Can two people each have their own over 65 deductions on the same property if they qualify separately?*
- No. Indiana Code 6-1.1-12-9(d) states that real property, a mobile home, or a manufacture home owned by (1) tenants by the entirety (i.e., a married couple); (2) joint tenants; or (3) tenants in common; is limited to one over 65 deduction. Check the deed or title document to determine which of the above fit with respect to the applicants.

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## Heritage Barn Deduction

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Heritage Barn (see IC 6-1.1-12-26.2)

(A) was constructed before 1950; and  
(B) retains sufficient integrity of design, materials, and construction to clearly identify the building as a barn.

- Cannot be a dwelling.
- Must have mortise and tenon construction (i.e., built using heavy wooden timbers, joined together with wood-pegged mortise and tenon joinery, that form an exposed structural frame).

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## Heritage Barn Deduction

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Heritage Barn (see IC 6-1.1-12-26.2)

- Statute requires the applicable township or county assessor to verify that the barn was constructed before 1950. Moreover, the auditor must apply the deduction to a heritage barn that received the deduction in the preceding year unless the auditor determines that the property is no longer eligible for the deduction because the barn was not constructed before 1950. Statute did not previously include this phrase. The Department understands this to mean that if Barn A qualified for and received the heritage barn deduction under the previous version of the law on January 1, 2016, but Barn A is not a mortise and tenon barn, Barn A will NOT lose the deduction for January 1, 2017 since Barn A was built before 1950. It is still the case that this deduction terminates following a change in ownership of the heritage barn (if John sells Barn A to Bob, John's heritage barn deduction is removed for the following assessment date and Bob must apply in his own name). Generally, however, the only basis an auditor has now for removing a heritage barn deduction from a heritage barn already receiving it is if the auditor determines that the barn was not constructed before 1950. Thus, auditors and assessors should give special attention to ensuring that barns for which the deduction is initially granted are in fact eligible.

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## Heritage Barn Questions

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- In 2016, we had 6 people apply for the Heritage Barn Deduction. They were approved by the assessor and paid the \$50 fee and received the deduction for pay 2017.

*Do we need to annually notify the recipients of this deduction to let them know they need to come in and reapply if they want to receive this deduction next year?*

- IC 6-1.1-12-26.2(e) states in part that "A person that receives a deduction . . . and that remains eligible for the deduction in the following year is not required to file an application for the deduction in the following year." Unless the auditor determines that the deduction should be taken off the property, the law requires the deduction to remain on as long as the property remains eligible.

*Also how do we disperse those monies at settlement?*

- IC 6-1.1-12-26.2(f) requires that the auditor apply the fee money "equitably among the police and fire departments in whose territories each heritage barn is located." So if, for example, the territory in which a heritage barn is located has a police department and a fire department, the fee for that heritage barn is divided evenly (that is, \$25 to each department).

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## Heritage Barn Question

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- *Can a person have a heritage barn deduction and the over 65 deduction?*
- There are no restrictions in the law.  
Therefore, it is permissible

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## Deduction Dates

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- If a deduction is validly in place on the assessment date, it will stay in place for the assessment year, even if the property changes hands and the new owner is ineligible for it.
- What if a person has a homestead on his principal place of residence on January 1 but moves to new principal place of residence later in the year? The deduction will stay on the old property for that tax cycle and can be granted a homestead deduction for the new property for the same tax cycle. See IC 6-1.1-12-37(h).

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## Energy Deductions

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### Solar Energy Heating or Cooling System Deduction – IC 6-1.1-12-26, 27.1

- The deduction equals
  - the cost associated with the components that are needed to collect, store, or distribute solar energy; and
  - the labor associated with the installation.
- Expenditure by current or former owner can be demonstrated by invoices or other evidence of purchase and installation.
- The solar thermal air system or solar energy heating or cooling system should be used for hot water or space heat (including pool water) or preheating for industrial processes.

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## Energy Deductions

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### Solar Power Device Deduction – IC 6-1.1-12-26.1, 27.1

- Devices installed in 2012 or later.
- Deduction equals
  - assessed value of the property with the device, minus
  - assessed value of the property w/o the device.
- For a solar power device assessed as distributable or personal property, the deduction equals the AV of the device.

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## Energy Deductions

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### Wind Powered Device Deduction – IC 6-1.1-12-29, 30

- Defined as a device, such as a windmill or wind turbine, designed to utilize the kinetic energy of moving air to produce electricity.
- Deduction equals
  - assessed value of the property with the device, minus
  - assessed value of the property w/o the device.

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## Energy Deductions

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### Hydro-electric Power Device Deduction – IC 6-1.1-12-33, 35.5

- Device installed in 1982 or later.
- Designed to utilize the kinetic power of moving water to provide mechanical energy or to produce electricity.
- Deduction equals
  - assessed value of the property with the device, minus
  - assessed value of the property w/o the device.
- IDEM must certify the system.
- If certified, subsequent owner does NOT need to seek certification again.
- Only applies if the property owner owns or is under contract to purchase the property on the date the certified statement is filed with the auditor.

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## Energy Deductions

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### Geothermal Energy Heating or Cooling Device Deduction – IC 6-1.1-12-34, 35.5

- Device installed in 1982 or later.
- Designed to utilize the natural heat from the earth to provide hot water, produce electricity, or generate heating or cooling.
- Deduction equals
  - assessed value of the property with the system, minus
  - assessed value of the property w/o the system.
- IDEM must certify the system.
- If certified, subsequent owner does NOT need to seek certification again.
- Only applies if the property owner owns or is under contract to purchase the property on the date the certified statement is filed with the auditor.

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## Homestead Deduction Question

*How do we apply a 60% homestead deduction to land only when we do not know what portion of the currently land AV that will be eventually allocated to the 1% land AV bucket?*

*For example, for pay-2018, they have 15 acres assessed at \$30,000 in the 2% bucket. The 1 acre AV (max) for the future home is not yet separated out into the 1% bucket. Shouldn't the 60% homestead be applied to only the 1 acre?*

Indiana Code 6-1.1-12-37(p) provides that an individual may receive a homestead deduction on land which was vacant or had a dwelling that was not completely built as of the assessment date. This provision also provides that this land is to be considered a homestead for purposes of the supplemental deduction and the property tax caps.

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## Homestead Deduction Question

IC 6-1.1-12-37(p)

(p) An individual is entitled to the deduction under this section for a homestead for a particular assessment date if:

(1) either:

(A) the individual's interest in the homestead as described in subsection (a)(2)(B) is conveyed to the individual after the assessment date, but within the calendar year in which the assessment date occurs; or

(B) the individual contracts to purchase the homestead after the assessment date, but within the calendar year in which the assessment date occurs;

(2) on the assessment date:

(A) the property on which the homestead is currently located was vacant land; or

(B) the construction of the dwelling that constitutes the homestead was not completed; and

(3) either:

(A) the individual files the certified statement required by subsection (e); or

(B) a sales disclosure form that meets the requirements of section 44 of this chapter is submitted to the county assessor on or before December 31 of the calendar year for the individual's purchase of the homestead.

An individual who satisfies the requirements of subdivisions (1) through (3) is entitled to the deduction under this section for the homestead for the assessment date, even if on the assessment date the property on which the homestead is currently located was vacant land or the construction of the dwelling that constitutes the homestead was not completed. The county auditor shall apply the deduction for the assessment date and for the assessment date in any later year in which the homestead remains eligible for the deduction. A homestead that qualifies for the deduction under this section as provided in this subsection is considered a homestead for purposes of section 37.5 of this chapter and IC 6-1.1-20.6. (Underline added.)

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## Homestead Deduction Question

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The DLGF believes that, because the land on which the dwelling will sit (i.e., the surrounding 1 acre) is considered the “homestead” under IC 6-1.1-12-37(p), the acre must be separated out from any “non-homestead” acreage and be given the 60% deduction amount as well as be placed in the 1% bucket.

So in the example, where the lot is 15 acres, 14 of those acres will remain in the 2% bucket and the 1 acre will be put into the 1% bucket and be given the homestead deduction amount.

This is easier to do when construction has begun on the dwelling since the acre can be identified. Where there is no partially completed dwelling, local control governs as to which is the surrounding 1 acre to apply the homestead deduction on.

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## Ineligible Homestead Question

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*How far back can an ineligible homestead be charged to a property owner? We had been given instruction by the DLGF back in 2014 that we could go back to when the statute was put into effect, which was 2009-pay-2010. Since then, we have also heard that we can only go back 3 years. Please clarify.*

House Enrolled Act 1273-2016 amended IC 6-1.1-36-17(b) to state, among other things, that the auditor may pursue ineligible homesteads within 3 years from when the taxes were first due.

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## Ineligible Homestead Question

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### IC 6-1.1-36-17(b)

Sec. 17. (b) If a county auditor makes a determination that property was not eligible for a standard deduction under IC 6-1.1-12-37 in a particular year within three (3) years after the date on which taxes for the particular year are first due, the county auditor may issue a notice of taxes, interest, and penalties due to the owner that improperly received the standard deduction and include a statement that the payment is to be made payable to the county auditor. The additional taxes and civil penalties that result from the removal of the deduction, if any, are imposed for property taxes first due and payable for an assessment date occurring before the earlier of the date of the notation made under subsection (c)(2)(A) or the date a notice of an ineligible homestead lien is recorded under subsection (e)(2) in the office of the county recorder. The notice must require full payment of the amount owed within:

(1) one (1) year with no penalties and interest, if:

(A) the taxpayer did not comply with the requirement to return the homestead verification form under IC 6-1.1-22-8.1(b)(9) (expired January 1, 2015); and

(B) the county auditor allowed the taxpayer to receive the standard deduction in error; or

(2) thirty (30) days, if subdivision (1) does not apply.

With respect to property subject to a determination made under this subsection that is owned by a bona fide purchaser without knowledge of the determination, no lien attaches for any additional taxes and civil penalties that result from the removal of the deduction.

(Underline added.)

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## How we can help?

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1. Research the FAQs, memos, and presentations on DLGF's website.
2. Ask the Auditor or other staff.
3. Consult with your County Attorney.
4. DLGF cannot provide legal or fiscal advice
  - We can help you identify the law
  - The elected official must apply the facts to the law

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# Thank you!

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