

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

Petition No.: 29-018-17-1-5-00667-18
Petitioner: John Getz
Respondent: Hamilton County Assessor
Parcel No.: 29-09-33-009-007.000-018
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 May 15, 2018. On May 30, 2018, the Hamilton County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner relief. On June 7, 2018, the Petitioner appealed to the Board.
2. On September 11, 2018, the Board's administrative law judge (ALJ) Dalene McMillen held a hearing. Neither the Board nor the ALJ inspected the property.
3. John Getz and Ann Getz appeared *pro se* and were sworn as witnesses. Attorney Marilyn Meighen appeared for the Respondent. Hamilton County Auditor's office employee Sadie Eldridge was sworn as a witness for the Respondent.¹

Hearing Facts and Other Matters of Record

4. The property under appeal is a single-family home located at 12472 Horesham Street in Carmel.
5. The official record for this matter is made up of the following:
 - a. A digital recording of the hearing,
 - b. Exhibits:

Petitioner Exhibit 1: Macy's bill sent to Mrs. Getz dated October 2, 2017,

¹ County Assessor Robin Ward, Robin Eckart, Lisa Johnson, Jennifer Dougherty, and Lisa Scherer were present but not sworn to testify.

- Petitioner Exhibit 2: TriCo Regional Sewer Utility bill dated August 31, 2018,
- Petitioner Exhibit 3: United States Postal Service (USPS) certified mail receipt dated May 30, 2017, and a copy of an envelope addressed to 12572 Branford Street in Carmel,
- Petitioner Exhibit 4: Two forms signed by Mr. Getz and Mrs. Getz.
- Respondent Exhibit A: Sales disclosure form dated October 18, 2016,
- Respondent Exhibit B: Trustee's deed dated October 14, 2016,
- Respondent Exhibit C: "Deduction Filing Notification" addressed to John Getz, dated May 25, 2017,
- Respondent Exhibit D: USPS certified mail receipt dated May 27, 2017,
- Respondent Exhibit E: Joint Report by Taxpayer / Assessor to the County Board of Appeals of a Preliminary Informal Meeting (Form 134) dated May 15, 2018,
- Respondent Exhibit F: Claim for Homestead Property Tax Credits/Standard Deduction (Form HC10) dated May 15, 2018,
- Respondent Exhibit G: Eleven USPS mail receipts for various properties in Hamilton County,
- Respondent Exhibit H: Indiana Code § 6-1.1-12-17.8(d) and summaries of the following cases: *Middleton Motors, Inc. v. Ind. Dep't of St. Revenue*, 380 N.E.2d 79, 81 (Ind. 1978), *Anne M. Walsh Trust v. Porter Co. Ass'r*, Pet. No. 64-023-12-3-5-01894-17 (Ind. Bd. of Tax Rev. 2018); *Elizondo v. Reed*, 588 N.E.2d 501 (Ind. 1992), *Jones v. Flowers*, 547 U.S. 220 (2006); and *M & M Investment Group v. Ahlemeyer Farms, Inc.*, 994 N.E.2d 1108 (Ind. 2013).

- 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.

Objections

6. The Petitioner objected to Respondent's Exhibit C on the grounds the Deduction Filing Notification was not received. The Respondent did not offer a response. The ALJ overruled the objection and admitted the exhibit. The Board formally adopts the ALJ's ruling and Respondent's Exhibit C is admitted.
7. The Petitioner also objected to Respondent's Exhibit G on the grounds that eleven USPS certified mail receipts are irrelevant. In response the Respondent stated the exhibit is "meaningful and relevant as it goes to the weight of the evidence." The Board agrees that the objection goes to the weight of the evidence rather than its admissibility. Thus, Respondent's Exhibit G is admitted.

Summary of the Parties' Contentions

8. Summary of the Petitioner's case:

- a. The relevant facts are largely undisputed. The Petitioner purchased the subject property on September 29, 2016, in his name only. Mr. Getz applied for the homestead deduction via the sales disclosure form on this same date. The subject property is utilized as the Petitioner's primary residence. The Petitioner married Ann Getz on March 30, 2017. *J. Getz testimony.*
- b. Sometime in 2018 the Petitioner discovered his homestead deduction had been removed for the 2017 assessment year. When he inquired into why it had been removed, he was informed the Auditor's office had sent a Deduction Filing Notification on May 25, 2017, stating that due to his recent marriage he was required to update his homestead records. According to the Petitioner, he never received the notification, and was therefore unaware he was required to refile for the homestead deduction. *J. & A. Getz testimony.*
- c. To support his claim that he never received notification, the Petitioner submitted four exhibits. The first two exhibits indicate both Mr. and Mrs. Getz reside at and receive mail at the subject property. The Petitioner also presented the Auditor's USPS certified mailing receipt indicating the signature of the individual who signed for the letter. According to the Petitioner, the signature appears to start with the letter "B" and is not the signature of either Mr. or Mrs. Getz. In support of this argument, the Petitioner presented two documents depicting the signatures of Mr. and Mrs. Getz. *J. & A. Getz testimony; Pet'r Ex. 1, 2, 3, 4.*

9. Summary of the Respondent's case:

- a. Mr. Getz purchased the subject property on September 29, 2016. At the time of purchase, the property was deeded in his name only and there was no spousal information provided on the sales disclosure form. *Eldridge testimony; Resp't Ex. A, B.*
- b. After learning the Petitioner applied for a marriage license, the Auditor's office sent a Deduction Filing Notification by certified mail to Mr. Getz on May 25, 2017.² If an unmarried individual receiving a homestead deduction subsequently marries, and desires to continue claiming the deduction and remains eligible, the individual must reapply for the deduction for the following assessment date. The letter informed Mr. Getz that married couples are limited to one homestead deduction and the residence must be owner-occupied. It also states that failure to update the homestead records

² According to the Respondent, these notices are sent via USPS certified mail because of the importance of the removal of the standard homestead deduction and the impact the loss of the deduction will have on the homeowner's taxes.

with the spouse's driver's license and social security information by December 31, 2017, will result in the removal of the homestead deduction. *Eldridge testimony; Resp't Ex. C, D, H.*

- c. The Auditor's office did not receive a reply to the Deduction Filing Notification. For this reason, the homestead deduction was removed for the 2017 assessment year. *Eldridge testimony.*
- d. On May 15, 2018, Mr. Getz reapplied for a homestead deduction with the proper spousal information. Accordingly, the homestead deduction has been applied for the 2018 assessment year. *Eldridge testimony; Resp't Ex. E, F.*

Analysis³

10. 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.⁴ 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. *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.
11. Indiana Code § 6-1.1-12-17.8(d) states that once a homestead is granted, an unmarried individual who subsequently marries, must reapply for the deduction for *the following assessment date*. Ind. Code § 6-1.1-12-17.8(d).
12. 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. The Petitioner purchased the property at the end of 2016 and he began using it as his principal place of residence. The Petitioner properly filed for the homestead deduction via the sales disclosure form and the Respondent granted the homestead deduction. The Petitioner then married Ann Getz on March 30, 2017. On May 25, 2017, the Respondent mailed a letter to the Petitioner notifying him that the homestead

³ 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.

⁴ 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.

deduction would be removed for the 2017 assessment year if he did not provide information regarding his spouse by December 31, 2017.

13. For the 2017 assessment year, the assessment date was January 1, 2017. *See* Ind. Code § 6-1.1-2-1.5. There is no dispute that the Petitioner was married on March 30, 2017. Therefore, he was required to reapply for the homestead deduction for the following assessment date. *See* Ind. Code § 6-1.1-12-17.8(d). The assessment date following the marriage would be January 1, 2018. Ind. Code § 6-1.1-2-1.5. The Auditor's records clearly indicate the Petitioner properly reapplied for the homestead deduction on May 15, 2018, when he filed his Form HC10. Therefore, the Board finds that the Respondent improperly removed the homestead deduction for the 2017 assessment year.

Conclusion

14. 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 24, 2019

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>>