

REPRESENTATIVES FOR PETITIONER:

Isaac Ihiasota

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

ISAAC IAHIASOTA,)	Petition No.: 02-038-01-3-5-00855*
)	
Petitioner)	County: Allen
)	
v.)	Township: Aboite
)	
ALLEN COUNTY PROPERTY)	Parcel No.: 11-4969-0054
TAX ASSESSMENT BOARD OF)	
APPEALS)	
)	
Respondent)	Assessment Year: 2001
)	

Appeal from the Final Determination of
Allen County Property Tax Assessment Board of Appeals

April 11, 2003

FINAL DETERMINATION

The Indiana Board of Tax Review assumed jurisdiction of this matter as the successor entity to the State Board of Tax Commissioners, and the Appeals Division of the State Board of Tax Commissioners. For convenience of reference, each entity is without distinction hereafter referred to as the "Board".

The Board having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

* This petition has been re-numbered to accurately reflect the year of appeal.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Issue

1. The issue presented for consideration by the Board is:
Whether the Petitioner should be allowed a mortgage deduction and homestead credit.

Procedural History

2. On March 1, 2001, Auto Owners Insurance Company owned the subject property. Auto Owners Insurance Company did not file for, and was not eligible for, a mortgage deduction or homestead credit. On July 19, 2001, Isaac Ihiasota purchased the subject property (Board Ex. B). At that time, the closing company credited \$987.46 for Mr. Ihiasota to pay the property taxes assessed at March 1, 2001, payable in May and November 2002. However, Mr. Ihiasota contends that the closing company assumed the property would be eligible for a homestead deduction and mortgage credit when calculating the amount of the credit (Board Ex. A).
3. Pursuant to Ind. Code § 6-1.1-15-12, Isaac Ihiasota filed a Petition for Correction of an Error, Form 133, with the Allen County Auditor. The form was filed on July 15, 2002. The petitioner requested that a mortgage deduction and homestead credit be applied to the subject property. On August 21, 2002, the Allen County Property Tax Assessment Board of Appeals denied the Petitioner's Form 133. The Petitioner was notified of this decision on September 18, 2002. Mr. Ihiasota then re-filed the Form 133 with the Indiana Board of Tax Review on September 24, 2002. The petition is officially recognized as part of the record as Board Ex. A.

Other Matters of Record

4. The following items are officially recognized as part of the record:
Board Ex. A – Form 133 petition.

Board Ex. B – Ownership history of property.

Jurisdictional Framework

5. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessment or matters of administrative law and process.
6. The Board is authorized to issue this final determination pursuant to Indiana Code § 6-1.1-15-12.

Discussion of Issue

Whether the Petitioner should be allowed a mortgage deduction and homestead credit

7. The Petitioner contends that he should receive a mortgage deduction and homestead credit for the 2001 assessment year.
8. The Respondent contends that the owner of record on March 1, 2001 was not eligible for a mortgage deduction or homestead credit, and did not file for either. Therefore, the Petitioner cannot receive a mortgage deduction or homestead credit for the 2001 assessment year.
9. The applicable rules governing this issue are:

Ind. Code § 6-1.1-12-2

...[A] person who desires to claim the [mortgage deduction] must file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which real property is located. The statement must be filed during the twelve (12) months before May 11 of each year for which the person desires to obtain the deduction.

Ind. Code § 6-1.1-20.9-3

An individual who desires to claim the [homestead credit] must file a certified statement in duplicate, on forms provided by the department of local government finance, with the auditor of the county in which the homestead is located.

Analysis of this issue

10. The Petitioner neither owned the property nor filed for a mortgage deduction or homestead credit for the March 1, 2001 the assessment date for which relief is sought. The owner at the assessment date in question, Auto Owners Insurance Company, did not file and was not eligible for either the mortgage deduction or homestead credit.
11. Ind. Code § 6-1.1-12-2 and Ind. Code § 6-1.1-20.9-3 require a property owner file a statement with the county auditor to receive these benefits. The Petitioner neither owned the property nor filed any statements for the March 1, 2001 assessment year.
12. Neither the Allen County PTABOA nor the Indiana Board of Tax Review has the authority to grant a mortgage deduction or homestead credit when no filing application was made.

Summary of Final Determination

13. For the reasons set forth, the Form 133 petition filed by Mr. Ihiasota is denied.

This Final Determination of the above captioned matter is issued this by the Indiana Board of Tax Review on the date first written above.

Chairman, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.