

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

Petition No.: 29-020-13-1-5-01448
Petitioners: Christopher M.W. Jordan
Respondent: Hamilton County Assessor
Parcel No.: 1911260020013000
Assessment Year: 2013

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

Procedural History

1. Christopher Jordan filed a Form 130 petition contesting the termination of his standard homestead deduction for 2013. On July 1, 2014, the Hamilton County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination denying Mr. Jordan relief.
2. Mr. Jordan then timely filed a Form 131 petition with the Board. He elected to have his appeal heard under our small claims procedures.
3. On September 28, 2015, the Board held a hearing through our designated administrative law judge, Dalene McMillen. Neither she nor the Board inspected the property.
4. Mitchell E. Phippen appeared as counsel for Mr. Jordan. Marilyn Meighen appeared as counsel for the Assessor.
5. The following people testified under oath: Mr. Jordan and Sadie Eldridge, an employee of the Hamilton County Auditor.

Record

6. The property under appeal is a single-family home located at 12911 Star Drive in Fishers.
7. The official record for this matter is made up of the following:
 - a. A digital recording of the hearing,

b. Exhibits:¹

- Respondent Exhibit A: Claim for Homestead Property Tax Credit/Standard Deduction for 2003,
- Respondent Exhibit B: Claim for Homestead Property Tax Credit/Standard Deduction for 2014,
- Respondent Exhibit C: May 1, 2013 Property Tax Homestead Deduction – Residency Verification letter,
- Respondent Exhibit D: May 31, 2013 Notice of Removal of Property Tax Standard Homestead Deduction and Additional Taxes plus 10% Penalty,
- Respondent Exhibit E: April 15, 2014 letter from Michael Howard, Hamilton County Attorney, to Dawn Coverdale and Sadie Eldridge,
- Respondent Exhibit F: Excerpts from the Indiana Code,
- Respondent Exhibit G: Two blank envelopes from Hamilton County Auditor and Treasurer,

- Board Exhibit A: Form 131 petition,
- Board Exhibit B: Hearing notice,
- Board Exhibit C: Hearing sign-in sheet,

c. These Findings and Conclusions.

Summary of the Parties' Contentions

8. Mr. Jordan's case:

- a. Mr. Jordan bought the property in April 2003. He applied for and received a homestead deduction. He has always used the property as his principal place of residence. *Jordan testimony.*
- b. Sometime in the spring of 2013, Mr. Jordan's mortgage company notified him that his monthly payment had increased dramatically. When he asked why, he was told that his property taxes had doubled. *Jordan testimony.*
- c. Mr. Jordan responded by contacting the offices of the Hamilton County Assessor and Auditor to ask about the tax increase. They said his homestead deduction had been removed because he failed to fill out and return a notice. Mr. Jordan does not believe he received any notices about verifying his homestead from the Assessor's office. His mortgage company and accountant handle all of his taxes. It is also possible that he did not receive notices because his property's address was changed from Noblesville to Fishers a few years ago. *Jordan testimony.*

¹ Mr. Jordan did not offer any exhibits.

- d. Once he was informed of the reason for the removal, Mr. Jordan provided the requested information. His deduction was reinstated for 2014 and he received a refund for 2012. But he was still denied a deduction for 2013. *Jordan testimony.*

9. The Assessor's case:

- a. Mr. Jordan completed his original homestead deduction form in 2003. In 2009, because the deduction was becoming increasingly more valuable, the legislature changed the statute to require more information from taxpayers claiming it. Among other things, the legislature required a taxpayer's spouse to be included on the form used for claiming the deduction. *Eldridge testimony; Resp't Ex. A.*
- b. The legislature also required county officials to identify and certify everyone receiving a homestead deduction. County treasurers were required to mail a homestead certification, commonly referred to as the "pink form," with property tax bills in April 2010, 2011, and 2012. Taxpayers had to complete and return the pink form by January 1, 2013. According to Sadie Eldridge, an employee of the Auditor, tax bills are mailed to mortgage companies when requested, but a copy is also mailed to the owner with a watermark reading, "escrow requested billing." The pink form was included in all escrow requested billings. *Eldridge testimony; Resp't Exs. F-G.*
- c. The Auditor maintains 85,000 homestead deductions. For that reason, she decided to mail the pink form two additional times—May 12, 2012, and November 12, 2012—in envelopes marked "County Taxes Date Sensitive." At the end of 2012, all but 3,800 taxpayers had completed their pink forms. *Eldridge testimony; Resp't Ex. G.*
- d. Mr. Jordan failed to fill out the pink form after five mailings. Thus, on May 1, 2013, the Auditor's office sent him a letter entitled "Property Tax Homestead Deduction – Residency Verification." The letter informed Mr. Jordan he needed to send proof of residency by May 20, 2013, or his homestead deduction would be removed. Ms. Eldridge testified that the letter was put in the outgoing mail, although she did not say by whom. The Assessor offered a copy of the letter, which is addressed to Mr. Jordan at 112911 Star Drive in Fishers. Ms. Eldridge agreed Mr. Jordan's address was actually 12911 Star Drive. She explained, however, that the Auditor's office tracks returned mail and no returned mail was scanned for Mr. Jordan's property. *Eldridge testimony; Resp't Ex. C.*
- e. The Auditor's office did not receive a reply to the residency verification letter. On May 31, 2013, it sent Mr. Jordan a final letter informing him that his homestead deduction had been removed in accordance with Ind. Code § 6-1.1-36-17. The letter enclosed a bill for the additional taxes due plus a 10% penalty. Ms. Eldridge did not identify who mailed the letter. The Assessor offered a copy of the letter as an exhibit. Unlike the residency verification letter, it lists Mr. Jordan's correct address. *Eldridge testimony; Resp't Ex. D.*

- f. On May 8, 2014, Mr. Jordan came to the Auditor's office and filed a homestead deduction claim for 2014 as well as an appeal to recover the deduction for 2012 and 2013. The PTABOA reinstated the deduction for 2012, and Mr. Jordan received a refund for that year. It denied his claim for 2013. *Eldridge testimony; Resp't Ex. B: Board Ex. A.*
- g. The Auditor consulted Michael Howard, the Hamilton County Attorney, to confirm her statutory obligations to refund taxes to taxpayers who failed to comply with statutory obligations. In an April 15, 2014 letter, Mr. Howard offered his opinion that the "[r]einstatement provision of Indiana 6-1.1-12-37(1)" authorized the Auditor to reinstate a homestead deduction upon a taxpayer providing proof of eligibility only for the year in which the taxpayer gives proof of the property's eligibility. He believed legislature's use of the present tense "is" in that section demonstrated such an intent. In his view, there was nothing in that section or other sections of the statute that would authorize the Auditor to grant a deduction retroactively. *Eldridge testimony; Resp't Ex. E.*

Analysis

10. Indiana Code § 6-1.1-12-37 provides a standard deduction for homesteads. To qualify as a homestead, a property must be the taxpayer's principal place of residence and meet various other criteria, none of which is in dispute here. A taxpayer must file a certified statement, in duplicate, with the county auditor to claim the deduction. I.C. § 6-1.1-12-37(e).² A taxpayer who receives the deduction in a particular year and remains eligible in the following year is not required to apply in the following year. I.C. § 6-1.1-12-17.8(a) (2015).
11. From 2010 through 2012, county treasurers were required to mail taxpayers receiving certain homestead credits or any deduction a notice, which they had to complete and return to the county auditor. I.C. § 6-1.1-22-8.1(b)(9) (2013) ("Verification Statute").³ The notice had to inform taxpayers that the failure to complete and return it could lead to disqualification. *Id.* In completing the notice, taxpayers had to indicate, under penalties of perjury, whether their property was eligible for the credits or deductions. They also had to supply certain information, including their names, the names of their spouses, and the last four digits of their social security numbers. For purposes of our analysis, we adopt Ms. Eldridge's terminology and refer to the notice as the "pink form."
12. A county auditor, at her discretion, may terminate a standard deduction for assessment dates after January 15, 2012, if a taxpayer failed to comply with the Verification Statute's requirements before January 1, 2013. I.C. § 6-1.1-12-17.8(a). Before doing so, the

² The sections of the Indiana Code addressing the standard deduction have been amended frequently. Unless otherwise indicated, citations are to the most recent version. The provisions controlling this appeal have not materially changed since 2013.

³ The Verification Statute expired on January 1, 2013. *See* I.C. § 6-11-22.8-9(b)(2013); *see also*, I.C. § 6-1.1-12-17.8(a).

auditor must mail notice of the proposed termination to the last known address of each person liable for any property taxes or special assessment or the last known address of the most recent owners. *Id.* More importantly for this case, the auditor “shall reinstate the deduction if the taxpayer provides proof that the taxpayer is eligible for the deduction and is not claiming the deduction for any other property.” I.C. § 6-1.1-12-17.8(h).

13. The Assessor does not dispute that Mr. Jordan used the property as his principal place of residence and otherwise qualified for the standard deduction. In the end, those are the only facts that matter. Whether or not the Auditor mailed the pink form or proposed termination notices to Mr. Jordan and thus properly terminated his deduction, Mr. Jordan showed the Auditor he was eligible for the deduction and was not claiming it for any other property. He was therefore entitled to have the deduction reinstated.
14. We are not persuaded by the Assessor’s argument that reinstatement is prospective only.⁴ The statute does not define “reinstate.” Absent such guidance, we must give the term its ordinary and usual meaning. *See Enhanced Telecommunication Corp. v. Ind. Dep’t of State Revenue*, 916 N.E.2d 313, 317 (Ind. Tax Ct. 2009) (explaining that, where terms were not defined by statute, court would give them their “plain, ordinary and usual meaning, as defined in the dictionary”). Merriam-Webster defines the verb “reinstate” as “1 : to place again (as in possession or in a former position) 2 : to restore to a previous effective state.” <http://www.merriam-webster.com/dictionary/reinstate>. Before the Assessor terminated Mr. Jordan’s standard deduction, he had a deduction that carried forward uninterrupted from year to year. To place him in his previous position or restore matters to their previous state, he must be given the deduction for 2013.
15. Our reading best implements what we perceive as the legislative intent behind the statute. The point of the statute is not to deny eligible taxpayers deductions, but rather to eliminate fraud by having them verify their eligibility and supply additional information. Those goals were met when Mr. Jordan provided the required information in May 2014. He is therefore entitled to have his 2013 standard deduction reinstated.⁵

Final Determination

In accordance with the above findings of fact and conclusions of law, we determine that Mr. Jordan’s standard homestead deduction must be reinstated for 2013.

⁴ The Hamilton County Attorney based his opinion that the deduction cannot be retroactively reinstated under Ind. Code § 6-1.1-12-37(l). On its face, that section does not apply to the situation at hand.

⁵ The Assessor has not challenged the timeliness of Mr. Jordan’s appeal below or the procedures used to prosecute it. We therefore do not address those questions.

ISSUED: _____

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>>.