

REPRESENTATIVE FOR PETITIONER:

James E. Freeman, Jr.  
SANSBERRY, DICKMANN, FREEMAN & BUILTA  
Anderson, Indiana

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

In the matter of:

JOYCE M. WEIDNER,	)	Petition Nos.: 48-003-97-1-5-00001
	)	48-003-98-1-5-00002
Petitioner	)	
	)	County: Madison
v.	)	
	)	Key No.: 999-J-04AZ
MADISON COUNTY,	)	
	)	
Respondent	)	Assessment Years: 1997 & 1998
	)	

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Appeal from the Final Determination of  
Madison County Auditor

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**April 10, 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:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Issue

1. The issue presented for consideration by the Board was:

*Whether the Petitioner is entitled to the mortgage deduction and homestead credit for the assessment dates of March 1, 1997 and 1998.*

### History

2. On October 29, 1993, Warren R. and Joyce M. Weidner filed for the mortgage deduction and homestead credit. The applications listed both Warren R. and Joyce M. Weidner.
3. On September 18, 1996, Warren R. Weidner quitclaim deeded the property to Joyce M. Weidner.
4. The Petitioner's spring statement for March 1, 1997 pay 1998 property taxes did not allow the homestead credit and mortgage deduction. This tax statement was received in the spring of 1998 and paid on May 5, 1998.

### Discussion of Issue

*Whether the Petitioner is entitled to the mortgage deduction and homestead credit for the assessment dates of March 1, 1997 and 1998.*

5. The Petitioner contends that the county incorrectly removed the homestead credit and mortgage deduction. The use of the property has not changed.
6. The Respondent contends that it is the county policy to require new homestead credit and mortgage deduction applications be filed when a new deed was filed.
7. The applicable rules governing this issue are:  
Ind. Code § 6-1.1-12

8. Evidence considered particularly relevant to this determination include the following:
  - a. Warren R. and Joyce M. Weidner owned the subject property.
  - b. Homestead credit and mortgage deduction applications were filed in the name of Warren R. and Joyce M. Weidner on October 29, 1993.
  - c. On September 18, 1996, Warren R. Weidner quitclaim deeded the property to Joyce M. Weidner.
  - d. The only change is how ownership was held. The property went from a multiple ownership (Warren R. and Joyce M. Weidner) to single ownership (Joyce M. Weidner).
  - e. Joyce M. Weidner was an original applicant, has retained ownership, and her use of the property has not changed.

Analysis of Issue

9. Joyce M. Weidner was a joint owner of the property prior to September 18, 1996, and the individual owner subsequent to that date.
10. There is no statutory support for the county's policy of requiring new credit and deduction applications to be filed whenever a new deed is filed if an original owner retains ownership and the use does not change.
11. There was a change in the homestead credit statutes shortly after the assessment date in question that seemed to clarify the right of such joint owners. The statute now states that an individual who receives the credit for property that is jointly held in a particular year, remains eligible in the following year and is not required to reapply following the removal of the joint owner.
12. It is clear that Joyce M. Weidner has remained an owner and in possession of the property in question. The use of the property has not changed.

## Summary of Final Determination

13. The Petitioner is entitled to the homestead credit and mortgage exemption for the March 1, 1997 and 1998 assessment dates.

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

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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.**