

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

Petition #: 82-027-02-1-5-00672
Petitioner: Ronald & Gloria J. Morrell
Respondent: Knight Township Assessor (Vanderburgh County)
Parcel: 0920012046012
Assessment Year: 2002

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

Procedural History

1. The Petitioner initiated an assessment appeal with the Vanderburgh County Property Tax Assessment Board of Appeals (PTABOA) by written document dated April 29, 2003.
2. The Petitioner received notice of the decision of the PTABOA on November 21, 2003.
3. The Petitioner filed an appeal to the Indiana Board of Tax Review (IBTR) by filing a Form 131 with the county assessor on December 22, 2004. Petitioner elected to have this case heard in small claims.
4. The IBTR issued a notice of hearing notice to the parties dated August 25, 2004.
5. The IBTR held an administrative hearing on September 30, 2004, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - A. For Petitioner: Ronald Morrell, Taxpayer
Mike Boatman, Stepson and Witness
 - B. For Respondent: Tammy Elkins, Vanderburgh County Deputy Assessor
Candy Wells, Vanderburgh County Hearing Officer
Shirley Reeder, Knight Township Deputy

Facts

7. The property is classified as a residential property as is shown on the property record card # 09-200-12-046-012.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Vanderburgh County PTABOA:
Land \$4,200 Improvements \$52,400

Contentions

10. Summary of Petitioner's contentions in support of alleged error in assessment is:
 - A. The Petitioner contends that the Homestead Credit should be applied to the property for the years 1977 through 2002.¹
 - B. The Petitioner contends it is unfair that he did not receive the Homestead Credit for the years 1977 through 2002, and especially for the 2002 reassessment year. *Boatman testimony; Morrell testimony.*
 - C. The Petitioner purchased the home in 1977 and filed his mortgage exemption and homestead credit at the same time. There is no receipt for this, but the mortgage exemption was filed. There is a record the Petitioner has received credit for his mortgage exemption since 1977. *Boatman testimony.*
 - D. The Petitioner paid all of his taxes through the bank and just recently paid off the mortgage. Because the bank took care of the taxes, the taxpayer was not aware during the previous years that he did not receive a Homestead Credit. The amount of the Homestead Credit was minimal throughout that time and did not amount to what it does for tax year 2002. The new amount given by the Homestead Credit plays an important role in the taxes paid. *Boatman testimony.*
 - E. It is not fair that the Petitioner has to pay the extra tax because of the error made by the Auditor in misplacing the Homestead Credit application and never applying it to the taxpayer's bills. If the Petitioner had paid his own taxes prior to paying off the mortgage at the bank, he would have noticed the Homestead Credit was not applied and checked on this situation earlier. *Boatman testimony.*
 - F. There was a newspaper article in the *Evansville Courier & Press* that discusses a local church, which did not file for an exemption. The Vanderburgh County Assessor stepped up in this situation and helped get an amendment passed through the Legislature that made it possible for the taxes on this church to be exempt even though it failed to file its exemption. This is not fair to the normal taxpayer. *Boatman testimony; Petitioner Ex 's. 1, 2, & 3.*

¹ The appeal before the IBTR pertains to only the 2002 year.

- G. For 2003, the Governor of Indiana proposed that the Counties could allow the taxpayers an extension for filing their application of the Homestead Credit for the 2003 taxes. This should have been extended to the taxpayers that did not get an exemption for 2002. *Boatman testimony.*
 - H. Because the Auditor misplaced the original filed Homestead Credit application, it is not the fault of the Petitioner and the Petitioner should be granted the Homestead Credit for the 2002 reassessment. The Petitioner does not have a receipt for this application, but it is not the fault of the taxpayer. *Boatman testimony; Morrell testimony.*
 - I. The Petitioner cannot find any record of when the actual Homestead Exemption was enacted into law and would like to have this clarified. *Boatman testimony.*
 - J. The Petitioner filed for the Homestead Credit for 2003. *Boatman testimony; Morrell testimony.*
11. Summary of Respondent's contentions in support of alleged error in assessment is:
- A. There is a record of the taxpayer filing his Mortgage Exemption in 1977, but there is no record of the Homestead Exemption ever being filed until the current 2003 filing. *Elkins testimony.*
 - B. Because there was no evidence provided by the taxpayer, the PTABOA had no other choice but to deny the appeal. *Elkins testimony.*
 - C. The taxpayer contends that he filed the Homestead Exemption in 1977 when he filed for his Mortgage Exemption, but there is no record of such and the Homestead Exemption did not begin in Indiana until 1980. *Elkins testimony.*

Record

12. The official record for this matter is made up of the following:
- A. The Petition, and all subsequent pre-hearing or post-hearing submissions by either party.
 - B. The tape recording of the hearing labeled BTR # 5882.
 - C. Exhibits:
 - Petitioner Exhibit 1: Newspaper article from the *Evansville Courier & Press.*
 - Petitioner Exhibit 2: A copy of House Enrolled Act 1055.
 - Petitioner Exhibit 3: Minutes from the May 7, 2004, Vanderburgh County PTABOA meeting.
 - Petitioner Exhibit 4: Memorandum dated October 17, 2003, from the Vanderburgh County PTABOA.
 - Petitioner Exhibit 5: Email message from State Representative Brian Hasler dated November 12, 2003.

- Respondent Exhibit 1: A copy of the property record card.
- D. These Findings and Conclusions.

Analysis

13. The most applicable governing law is:
- A. The Petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - B. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment, and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
 - C. Ind. Code § 6-1.1-20.9
Details the requirements for a person to obtain a homestead credit.
 - D. Ind. Code § 6-1.1-12-37
Details of the standard deduction for homesteads can be found.
14. The Petitioner did not provide sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:
- A. The Petitioner purchased his home in 1977 and filed for his Mortgage Exemption. The Petitioner contends he filed for a Homestead Credit at the same time.
 - B. However, the Homestead Credit was not enacted until 1979 (IC § 6-1.1-20.9). In 1980, the Petitioner would have had to file for the Homestead with the local County Auditor. An annual application for the Homestead Credit was required until 1989 when the standard deduction was put into place. After 1989, the taxpayer was required to file a new application for the Homestead Credit only if the place of residence changed.
 - C. The Petitioner was not able to offer any proof that the application for a Homestead Credit had been filed prior to 2003. The Petitioner has filed for and will receive a Homestead Credit for the Assessment Year 2003.
 - D. The Petitioner did not provide any evidence of an application for the Homestead Credit. The Auditor also has no record that a Homestead Credit had ever been applied for prior to 2003
 - E. This Board cannot determine that the Petitioner is entitled to a Homestead Credit without evidence of a timely filed application. *See Ind. Code § 6-1.1-20.9-3.*

Conclusion

15. The Petitioner did not provide probative evidence of error. The Board will not change the decision of the PTABOA regarding the denial of the Homestead Credit for 2002. The Board finds in favor of the Respondent.

ISSUED: _____

Commissioner

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.