

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

Petition Nos.: 29-007-14-1-5-00410-18
29-007-15-1-5-00411-18
29-007-16-1-5-00409-18
Petitioner: Ronald A. Sickmeier
Respondent: Hamilton County Assessor
Parcel No.: 29-15-05-403-028.000-007
Assessment Years: 2014, 2015, and 2016

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 2014, 2015, and 2016 appeals with the Hamilton County Auditor on December 27, 2017. On February 13, 2018, the Hamilton County Property Tax Assessment Board of Appeals (PTABOA) issued its determinations denying the Petitioner relief.
2. The Petitioner timely filed Petitions for Review of Assessment (Form 131s) with the Board, and elected the Board's small claims procedures.
3. The Board initially set a hearing for these Form 131s on June 28, 2018, but the Petitioner failed to appear. The Board issued a dismissal on July 9, 2018. On July 19, 2018, the Petitioner filed a request to set aside the dismissal. The Board granted the request and rescheduled the hearing for September 11, 2018.
4. On September 11, 2018, Dalene McMillen, the Board's administrative law judge (ALJ), held a consolidated hearing. She did not inspect the property.
5. Ronald Sickmeier appeared *pro se*. Accountant Thomas L. Derrow III was sworn as witness for the Petitioner. Attorney Marilyn Meighen appeared for the Respondent. Sadie Eldridge and Lisa Scherer, employees from the Hamilton County Auditor's Office, were sworn as a witnesses for the Respondent.¹

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

Hearing Facts and Other Matters of Record

6. The property under appeal is a single-family residence located at 111 Pinehurst Avenue in Fishers.
7. The official record for this matter is made up of the following:
 - a. A digital recording of the hearing,
 - b. Exhibits:

The Petitioner did not submit any exhibits.

The Respondent submitted the following exhibits:

- Respondent Exhibit A: Warranty deed for subject property from David and Maura Leonard to Ronald Sickmeier, dated May 26, 1998,
- Respondent Exhibit B: Quitclaim deed for subject property from Ronald Sickmeier to Linda Sickmeier, dated February 6, 2001,
- Respondent Exhibit C: Quitclaim deed from Linda Sickmeier to Ronald Sickmeier, dated June 21, 2012,
- Respondent Exhibit D: “Property Tax Deductions – Removal Notification” from Hamilton County Auditor to Ronald Sickmeier, dated June 25, 2012,
- Respondent Exhibit E: 2013 Hamilton County Tax and Assessment Statement,
- Respondent Exhibit F: 2014 Hamilton County Tax and Assessment Statement,
- Respondent Exhibit G: 2015 Hamilton County Tax and Assessment Statement,
- Respondent Exhibit H: 2016 Hamilton County Tax and Assessment Statement,
- Respondent Exhibit I: Claim for Homestead Property Tax Credits/Standard Deduction (Form HC10) for the subject property, dated December 27, 2017,
- Respondent Exhibit J: Homestead deduction citations from *Eric Derheimer v. Hamilton Co. Ass’r*, Pet. No. 29-018-16-3-5-00748-17 (February 1, 2018).

- 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

8. Ms. Meighen objected to Mr. Derrow’s “hypothetical question” regarding the Hamilton County Auditor’s transfer of the subject property in 1998 and 2001 and their failure to

remove the homestead deduction and mortgage deduction at those times.² Ms. Meighen went on to argue Ms. Eldridge did not have any first-hand knowledge of what happened in 1998 and 2001 and that the years under appeal are 2014, 2015, and 2016. The Petitioner did not offer a response. The ALJ took the objection under advisement. The objection goes to the weight of the testimony rather than its admissibility. Thus, the objection is overruled.

Summary of the Parties' Contentions

9. Summary of the Petitioner's case:
 - a. The relevant facts are largely undisputed. Mr. Sickmeier purchased the subject property on contract in 1992. In 1997, Mr. Sickmeier obtained a mortgage and the property was subsequently deeded to him on May 26, 1998. On February 6, 2001, Mr. Sickmeier inadvertently deeded 100% of his interest in the property to Linda Sickmeier. Due to a divorce, Ms. Sickmeier deeded the property back to Mr. Sickmeier on June 21, 2012. Mr. Sickmeier has resided at the property for 26 years. *Sickmeier testimony; Derrow testimony; See also Resp't Ex. A, B, C.*
 - b. Mr. Sickmeier was "unaware" that after Ms. Sickmeier deeded the property back to him the homestead deduction and mortgage deduction were removed in 2012 by the Hamilton County Auditor's office. According to Mr. Derrow, he discovered Mr. Sickmeier was not receiving the deductions in 2017 when he was preparing the Petitioner's tax returns. Mr. Derrow "believes" that had Mr. Sickmeier received a letter from the Auditor's office, he would have filed for those deductions. Because he never received a letter from the Auditor in 2012, he did not apply for the homestead deduction and mortgage deduction.³ *Derrow testimony.*
 - c. Mr. Derrow pointed to several errors the Auditor made on the Joint Report by Taxpayer/Assessor to the County Board of Appeals of a Preliminary Informal Meeting (Form 134). First, Ms. Sickmeier did not initially purchase the property as land only in 2001. Instead, Mr. Sickmeier initially purchased the property with a home on it "in the 90s." The Form 134 also stated the homestead deduction and mortgage deduction began in 2003, but that is inaccurate because the deductions began in 1998. Accordingly, the denial of the deductions is based on "massively incorrect" information. *Derrow argument.*

² The Petitioner used the term "homestead exemption" throughout his presentation. There is no exemption that exempts homesteads from taxation. The Board infers he is referring to the standard deduction for homesteads provided for under Ind. Code § 6-1.1-12-37, and will use the term "homestead deduction" hereinafter.

³ Mr. Derrow stated that the Petitioner would like to have the homestead deduction and mortgage deduction reinstated for 2012, 2013, 2014, 2015, and 2016. But he acknowledged the law "only allows the county to go back three years from the date filed," so the Petitioner only filed for 2014, 2015, and 2016.

10. Summary of the Respondent's case:

- a. The Auditor's transfer history on the subject property indicates both Mr. and Ms. Sickmeier were receiving the benefit of the homestead deduction and mortgage deduction that were filed by the original owners David and Maura Leonard. The Auditor has no record of the Sickmeiers applying for these deductions. This error was discovered on June 21, 2012, when Ms. Sickmeier quitclaim deeded the property back to Mr. Sickmeier. *Eldridge testimony; Resp't Ex. A, B, C, J.*
- b. The Auditor's office sent a "courtesy letter" to Mr. Sickmeier on June 25, 2012. The letter informed Mr. Sickmeier that if this was his primary residence, he would need to apply for a homestead deduction by December 31, 2012. Mr. Sickmeier failed to apply. *Eldridge testimony; Resp't Ex. D.*
- c. The Petitioner's tax statements for 2013 through 2016 indicate the subject property was not receiving a homestead deduction or a mortgage deduction. The Petitioner received notification "in some form" every year from 2012 through 2016 that he was not receiving either deduction. *Eldridge testimony; Resp't Ex. E, F, G, H.*
- d. On December 27, 2017, the Petitioner properly filed a homestead deduction claim. As a result, the homestead deduction was applied to the subject property for the 2017 assessment year.⁴ At this time, the Petitioner also initiated appeals to recover the homestead deduction and mortgage deduction for the 2014, 2015, and 2016 assessment years. *Eldridge testimony; Resp't Ex. I.*

Analysis⁵

11. 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 principal place of residence and up to one acre of surrounding land. Ind. Code § 6-1.1-12-37(a)-(c). At all times relevant to this appeal, the taxpayer was required to apply for the deduction in one of two ways.⁶ First, he could file a certified statement with the county auditor on forms prescribed by the Department of Local Government Finance (DLGF). Ind. Code § 6-1.1-12-37(e). The DLGF prescribed 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.*; Ind. Code § 6-1.1-12-37(e). Alternatively, a taxpayer could use the sales disclosure form at the time of purchase to claim the deduction. *Id.*; Ind. Code § 6-1.1-12-44.

⁴ The Respondent testified that the mortgage deduction was also reinstated in 2017.

⁵ Because the Petitioner did not challenge the current assessments of the subject property, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply, and the burden rests with the Petitioner.

⁶ Once the auditor grants the deduction, it carries forward and taxpayers need not reapply. *See* Ind. Code § 6-1.1-27-37(e); Ind. Code § 6-1.1-12-17.8.

12. Indiana Code § 6-1.1-12-1 provides a mortgage deduction for an owner of the property who secures an obligation, such as a debt and is extinguished upon payment or performance according to the terms of a written instrument. The total amount of the deduction the person may receive for a particular year is the less of: (1) the balance of the mortgage; (2) one-half (1/2) of the assessed value of the real property; or (3) three thousand dollars (\$3,000). *See* Ind. Code § 6-1.1-12-1(c). To apply for a deduction a statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. Ind. Code § 6-1.1-12-2(c)(2).
13. The subject property qualified as a “homestead” under Ind. Code § 6-1.1-12-37(a)(2). With that being said, the Auditor has no record of Mr. Sickmeier having filed anything to claim a homestead deduction until December 27, 2017, when he filed the Form HC10 for the 2017 assessment date. Mr. Sickmeier stated that he initially filed for it in 1998, and continued to receive the deduction until Ms. Sickmeier quitclaim deeded the property back to him on June 21, 2012.⁷ However, Mr. Sickmeier was put on notice through a courtesy letter in 2012 and his 2013 tax statement that the homestead deduction was being revoked by the Auditor. It is the revocation that Mr. Sickmeier is challenging, and he failed to timely appeal that action. Because the appeal is untimely, the Board cannot review the 2012 revocation. For this reason, Mr. Sickmeier is not entitled to the homestead deduction for 2014, 2015, and 2016, because he failed to apply for the deduction after the revocation.
14. The Petitioner also qualified for a mortgage deduction under Ind. Code § 6-1.1-12-1. However, neither the Petitioner nor the Auditor produced any evidence or documentation to indicate a mortgage deduction was ever applied for. The Auditor testified the mortgage deduction was reinstated for the 2017 assessment date. In the absence of any evidence or documentation, the Petitioner is not entitled to a mortgage deduction for 2014, 2015, and 2016.

⁷ The Board notes that it is unreasonable to expect that Mr. Sickmeier would retain the claim form in his records after receiving the homestead for 15 years.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Board finds the Petitioner failed to file the standard homestead deduction claim and the mortgage deduction claim for the 2014, 2015, and 2016 assessment years. As a result, the Petitioner is not entitled to either deduction for these years.

ISSUED: December 10, 2018

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>>