

---

# STATE OF INDIANA

---

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH  
100 NORTH SENATE AVENUE N1058(B)  
INDIANAPOLIS, IN 46204  
PHONE (317) 232-3777  
FAX (317) 974-1629

## Frequently Asked Questions

### Auditors' Association 2016 Fall Conference

October 14, 2016

#### DEDUCTION QUESTIONS

1. **Question:** *What is the statute for allowing the homestead and other deductions for a non-US citizen? Also, does this statute cover undocumented immigrants being able to receive these benefits?*

**Answer:** The homestead deduction statute, IC 6-1.1-12-37(e), provides that if a person does not have a Social Security number, driver's license, or state ID, the person can provide the last five digits of a control number issued by the US federal government. Thus, a person with a passport or visa could potentially claim a homestead deduction. A person with no such ID information would not be eligible for the deduction. Other deductions do not require the same type of ID information the homestead deduction does. To be clear, no deduction requires that the applicant be a US citizen; some deductions require the applicant to be an Indiana resident (e.g., the mortgage deduction), but this does not mean the person has to be a US citizen. Residency and citizenship are not synonymous.

2. **Question:** *Can we get a check box or something on the sales disclosure form stating if the new owners are married or if they are filing based on divorce?*

**Answer:** The DLGF will keep this suggestion in mind as it prepares revisions to the form.

3. **Question:** *Our assessor charges \$10 if the sales disclosure is not done online. Is this legal?*

**Answer:** State statute dictates that the SDF fee is \$10, and no county can alter this amount. However, counties may be able to impose local fees for recording or processing documents. There should be a legal basis for the fee. DLGF would encourage the county to confer with the county's attorney and State Board of Accounts about the validity of its local fees.

4. **Question:** *Who is responsible for keeping track of the balance available for a veteran's excise credit – the auditor or the BMV?*

**Answer:** A veteran who has an unused portion of a disabled veteran deduction available can receive a credit calculated by the auditor to take to the BMV. When the veteran goes to the branch and uses

their partial credit, the transaction is recorded on the sheet provided by the veteran. The remaining balance is typically written on the back but it can always be figured by deducting the amount of the transaction from the starting total. It would be up to the veteran to keep track of the form.

**5. Question:** *On the homestead deduction application form, a married couple supplied the last five digits of their Social Security and driver's license numbers. Do they both have to sign the form?*

**Answer:** No, only one spouse has to sign.

**6. Question:** *Do you have to fill out a homestead deduction application or can you use the sales disclosure form?*

**Answer:** The SDF should only be used to apply for a homestead deduction when the SDF is being used to document a conveyance and statute requires the use of a SDF in conjunction with that conveyance. A person could use the homestead deduction application (HC10) instead of applying through the SDF even if they are in fact submitting a SDF.

**7. Question:** *Can trusts, including revocable trusts, still receive a mortgage, homestead, or other deduction?*

**Answer:** Property owned by a trust can still potentially have the following deductions: over 65; blind/disabled person; partially disabled veteran; totally disabled veteran; surviving spouse of World War I veteran; standard homestead deduction; and supplemental homestead deduction. The law continues to allow a person to claim certain deductions on property owned by a trust if the person has a beneficial interest in the trust (or "the right to occupy the real property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2)") and the person otherwise qualifies for the deduction.

**8. Question:** *If the assessed value on a parcel is within the limits when a person applies for a deduction, but it later increases to be over the limit, can (or should) the deduction be removed? Example: A person applies for an over 65 deduction. At the time of the application, the assessed value is \$150,000. Due to remodeling and a sizeable addition, the value is now at \$190,000.*

**Answer:** Yes, in this example, the property is no longer eligible for the deduction.

**9. Question:** *If a parcel has a homestead deduction and goes into a family trust, doesn't the person with the beneficial interest still need to file an application since the deduction was previously in the name of the owner? Also, if there is a life estate on a trust and the person with the life estate doesn't live at the property, can someone else claim a homestead deduction if they have the beneficial interest?*

**Answer:** The DLGF consulted a member of the Indiana State Bar Association's Probate, Trust & Real Property Section, who has confirmed that a new deduction application is not necessary. In addition, "any trust is entitled to a deduction for real estate occupied by a person having a beneficial interest in the trust if the trustee or occupying beneficiary satisfy the requirements of Indiana Code § 6-1.1-12-17.9," and that "It is possible for a life estate to be exclusive, thereby depriving others of the right to occupy real estate. However, unless a grant or reservation of a life estate specifies that the occupational rights of the life estate tenant are exclusive, I do not believe that the existence of the life estate defeats the right of occupation by a remaindermen." In other words, the auditor may need to

confirm whether the life estate is exclusive, which would likely make it impossible for a different person who has the beneficial interest in the trust to claim a homestead deduction. If the life estate is not exclusive, the person with the beneficial interest could potentially qualify.

**10. Question:** *If there is an over 65 deduction or disabled vet deduction on a property and the recipient passes away, do we not need the surviving spouse to submit a new deduction application?*

**Answer:** If the recipient passes away after January 1, the deductions in place as of that January 1 will remain in place for that tax cycle. For the following tax cycle, the surviving spouse should apply in his or her own name as surviving spouse.

## MISCELLANEOUS QUESTIONS

- 1. Question:** *If a tax notice is returned as undeliverable as addressed, or the taxpayer moved and left no forwarding address, etc., who is responsible for changing the address – the treasurer or the auditor? Also, should the deductions be removed by the auditor’s office?*

**Answer:** The DLGF infers that this question is referring to the TS-1 tax bill. According to statute (IC 6-1.1-22-8.1), “If a statement is returned to the county treasurer as undeliverable and the forwarding order is expired, the county treasurer shall notify the county auditor of this fact. Upon receipt of the county treasurer’s notice, the county auditor may, at the county auditor’s discretion, treat the property as not being eligible for any deductions under IC 6-1.1-12.” The auditor should bear in mind, however, that the deductions may have been validly in place as of the preceding assessment date, so the removal of the deductions would most likely be appropriate for the following assessment date. Because the auditor is responsible for maintaining the tax duplicate (IC 6-1.1-22-3), the auditor should probably be responsible for updating or changing address information.

- 2. Question:** *Do multi-year contracts with a total cost greater than \$50,000 (but annually less than \$50,000) need to be uploaded to Gateway? If we have had an ongoing contract for 8 years (for example, tax & billing or financials), do those also need to be uploaded if they are over \$50,000? Or is it just new contracts? Must all contracts that commissioners sign be uploaded into Gateway? When will Gateway have the portal to upload contracts?*

**Answer:** Only a contract that involves a payment for the year that exceeds the lesser of (1) 10% of the political subdivision’s property tax levy for that year; or (2) \$50,000 would have to be uploaded. By way of example, a contract entered into on December 1, 2016 for \$60,000 but that involves a payment in 2016 of only \$1,000 would not have to be uploaded in 2016 (assuming the unit’s total levy for 2016 exceeds \$10,000). If the contract requires a payment of \$52,000 in 2017, then the contract would have to be uploaded in 2017. Only contracts entered into on or after July 1, 2016 are subject to reporting, so a contract entered into before July 1, 2016 but that has a multi-year term technically is not subject to reporting. The DLGF hopes to have the portal operational within the next month. There is no penalty for uploading more contracts than a unit is legally obligated to upload, so units are welcome to err on the side of transparency when in doubt.

- 3. Question:** *Is there some “site” or help location where questions regarding land transfers can be found?*

**Answer:** The Indiana State Bar Association’s Probate, Trust & Real Property Section has groups of expert members that constantly evaluate laws concerning estates, trusts, guardianships, and real estate. Any government official that would like to have input from the ISBA about a new or persistent problem should feel free to contact the ISBA and request an audience with representatives of the Probate, Trust & Real Property Section: 800-266-2581 or [www.inbar.org](http://www.inbar.org).

- 4. Question:** *Is a deed reading this way as to one person being deceased, acceptable, or is a separate Affidavit needed as regards the deceased along with the deed? Does this one document cover what it needs to cover?*

a. *THIS INDENTURE WITNESSETH, Record title was acquired by John F. Doe and Jane Doe, husband and wife by deed dated 11/18/2005 recorded 11/29/2005 as Instrument No. ###. It*



If the person executing an instrument affirms that the signature on the instrument belongs to the person, there is no requirement in the statute that the person give the acknowledgment in the presence of the notary public. Therefore, presumably, the signatory to an instrument could affirm his or her signature to the Notary Public telephonically.”

**6. Question:** *What can we do about title companies putting “no spouse” on the deduction application portion of the SDF, but we find out that there is a spouse. This happens often.*

**Answer:** If an applicant has a spouse and fails to provide the spouse’s ID information, then the applicant’s SDF deduction application is incomplete (the rest of the SDF could be valid and if it is, should be processed). The auditor is encouraged to notify the applicant of the issue and give the individual an opportunity to validly apply by the applicable deadlines. If the deadlines have passed, then the individual can apply for the following tax cycle.

**7. Question:** *On the DLGF Homestead Database, can there be a checkbox to indicate a contract? That would help at the end of the year when we get an error report.*

**Answer:** The DLGF will keep this suggestion in mind as it administers the database.

**8. Question:** *Should employee bonding agreements be reported through Debt Management?*

**Answer:** Debt reporting covers bonds issued by the unit or leases entered into by the unit, not individual surety bonds obtained by officers or employees of the unit. According to State Board of Accounts, insurance and bonds (blanket bonds, etc.) for officials and employees should be uploaded in the Gateway system when completing the Annual Financial Report.