Of course, the ordinary mortgage exemption is available to anyone who meets the requirements of the Mortgage Exemption Act.

TAX COMMISSIONERS: Two persons owning separate real estate properties, included in one mortgage, are entitled to but one mortgage deduction or exemption.

March 27, 1941.

Mr. Edward D. Koenemann, Secretary,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of March 26th which reads as follows:

"We are in receipt of a letter, which is enclosed, raising the question as to whether a husband and a wife are each entitled to a $1,000.00 mortgage exemption or deduction where one mortgage is given on two separate farms, one owned by the husband and one by the wife.

"The State Board of Tax Commissioners for many years has construed the law to be that only one claim for deduction under the mortgage exemption law can be made upon any one mortgage.

"May we have your official opinion on this question?"

I believe the interpretation as given to the statute in the past by the State Board of Tax Commissioners is correct, that only one claim for deduction can be made upon any one mortgage.

The statute in question, Section 1, Chapter 32, Page 118, Acts 1939, being Section 64-209, Burns 1933, Pocket Supplement, reads as follows:

"Any person being a resident of the state of Indiana, being the owner of real estate liable for taxation within the state of Indiana, and being indebted in any sum secured by mortgage upon any such real estate, may have the amount of such mortgage indebtedness, not exceeding one thousand ($1,000) existing and unpaid
upon the first day of March of any year, deducted from
the assessed valuation of his or her said mortgaged
premises for that year, and the amount of such valua-
tion remaining after such deduction shall have been
made shall form the basis for assessment and taxation
for said real estate for said year: Provided, That no
deduction shall be allowed greater than one-half of
such assessed valuation of said real estate."

This section of the statute in providing deductions, refers to
the "sum secured by mortgage," and the "amount of such
mortgage indebtedness," which without any question has refer-
ce to one mortgage debt, that is, to one mortgage. Since two
separate farms, owned separately by two persons, mortgaged
by one instrument establishes but one mortgage indebtedness,
it seems clear in view of the wording of the statute that there
could be but one deduction.

Even if the statute were not clear, and is possibly open to a
wider interpretation, it is to be said that the settled law in this
and other states is that claims for exemption from taxation or
of deductions are to be strictly construed against the claimants
and such claims are to be restricted rather than enlarged.

Several opinions from former Attorneys General are cited
in the letter which accompanies your inquiry. These opinions
appear to be correct statements of the law but are hardly ap-
licable to the particular question involved in the case pre-

tented.

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STATE HIGHWAY COMMISSION: School grounds for
highways.

Mr. James D. Adams, Chairman,
State Highway Commission of Indiana,
State House Annex,
Indianapolis, Indiana.

Dear Sir:

This is in response to your request of March 26, 1941, which
reads as follows:

"The Right of Way Department of the State Highway
Commission writes me that it has before it a grant se-