
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions
FROM: Brian E. Bailey, Commissioner *BEB*
RE: Legislative Changes to Maximum Permissible Levies
DATE: May 16, 2011

House Enrolled Act 1288-2011 (HEA 1288) and House Enrolled Act 1004-2011 (HEA 1004) each prescribe changes to the calculation of a unit's maximum permissible ad valorem property tax levy ("max levy"). Put together, these changes constitute a significant simplification of the max levy calculation. These changes are effective for budget year 2012.

HEA 1288 eliminated the provision in IC 6-1.1-18.5-1 that a civil taxing unit's max levy is reduced by half of the amount not spent in the previous year (commonly referred to as "use it or lose it"). Under the revised law, the max levy calculation will apply the amount determined in the max levy calculation under IC 6-1.1-18.5-3 to the previous year's max levy.

Additionally, HEA 1288 provides that a school corporation's transportation fund max levy is no longer reduced by the amount not spent in the previous year. Under the revised law, the max levy calculation will apply the growth factor to the previous year's max levy.

Civil taxing units and school corporations that do not levy the full max levy will be treated the same in the following year as any of those that do seek the max levy. Further, political subdivisions may reduce property tax levies for a year without decreasing their long-term revenue capacity.

HEA 1004 makes two additional adjustments to the max levy formula. First, it changes the allowable increases resulting from annexation (IC 6-1.1-18.5-3(a) and (b) Steps 3-7). In the past, the max levy would be increased by the greater of the following: (1) the percentage increase in assessed value due to the annexation, up to 15% or (2) the amount of revenue received under contract from another unit for providing services to the annexed area plus the amount of any excess levy appeal awarded as a result of an annexation. The new law removes the contract revenue from the equation, so the adjustment is the greater of: (1) the percentage increase in assessed value due to the annexation, up to 15% or (2) the amount of any excess levy appeal awarded as a result of an annexation.

Second, HEA 1004 removes a number of additional steps for counties imposing a County Adjusted Gross Income Tax (“CAGIT”). These steps culminated in an annually updated adjustment that has been referred to on max levy reports as “HB 1149 Amount,” “P.L. 1978-87 Amount,” or “Subsection (e) Amount.” For details on this calculation, please see pages 4-10 of the sample max levy report at

http://www.in.gov/dlgf/files/Sample_Max_Levy_Detailed_Report.pdf. For many units, this adjustment was difficult to calculate and fluctuated significantly from one year to another, making it difficult for units to predict their max levies for upcoming years. The elimination of this adjustment will make max levies much more stable and predictable in the future.

Since the future formula begins with the previous year’s max levy, which included a “Subsection (e) Amount,” and grows the levy based on what is expected to be a positive growth factor, no unit should have a 2012 max levy that is lower than the 2011 max levy. (This applies to the max levy before temporary adjustments, such as appeals and bank personal property tax paid.) However, the new law does permit the Department of Local Government Finance (“Department”) to adjust the unit’s max levy in the first year if the unit proves that it has been harmed by the change in the formula. Specifically, if the unit’s 2012 max levy would have been greater under the old formula than it is under the new formula, the Department may grant a permanent adjustment to the max levy in an amount less than or equal to the difference in formula results. An appeal for this adjustment is to be made following the same procedures as other max levy appeals under IC 6-1.1-18.5-12. **The Department’s authority to make this adjustment is for Pay 2012 budgets only.**

The Department has composed a new sample max levy report that encompasses the law changes from the 2011 legislative session. Since many of the remaining steps in the formula affect only those units involved in annexations, separate sample reports have been created for those units involved in annexations and those that are not. The new reports can be viewed at http://www.in.gov/dlgf/files/Sample_Max_Levy_Detailed_Report_2012_no_annexation.pdf and http://www.in.gov/dlgf/files/Sample_Max_Levy_Detailed_Report_2012_with_annexation.pdf. As referenced above, the version of the report for past years can be viewed at http://www.in.gov/dlgf/files/Sample_Max_Levy_Detailed_Report.pdf.

Please direct questions to Deputy Commissioner Sarah Ancel at 317.234.4376 or sancel@dlgf.in.gov.