

# *Key Ideas*

## **Chapter 7: Excessive Levy Appeal Process**



*In this section, we will discuss the following:*

- *The excessive levy appeal process.*
- *The time frame for filing an excessive levy appeal with the Department of Local Government Finance*
- *The different appeals available to Libraries.*
- *How to include an excessive levy appeal in the budget process.*

## Excessive Levy Appeal Process

The following section describes the excessive levy appeal process for libraries. Before beginning, it is important to have a general understanding of what an excessive levy appeal is and how the appeal ties into the budget process. An excessive levy appeal is a request for consideration of an exception to the property tax control laws due to a need for an increase in levy for a library that is experiencing increased growth or increased operating expenses. The increase requested is above the normal maximum levy limitation in place by statute. The following outlines the excessive levy appeal process, time frame for consideration of an appeal, application to be filed and current appeals available.

### Process

Any library that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute, may on or before **October 19** of the year preceding the ensuing calendar year appeal to the Department of Local Government Finance for an increase in levy. Units have until December 31 to file shortfall levy appeals. The appeal must be submitted to the following address:

Department of Local Government Finance  
Attention: Budget Division  
Indiana Government Center North  
100 North Senate Ave, Room N-1058  
Indianapolis, IN 46204-2211

The Library Director is required to file a written petition with the Department of Local Government Finance stating that it cannot carry out the functions required by law and must supply a detailed statement outlining the need for an appeal. The Library Director may/may not be required to appear before the Department of Local Government Finance (DLGF) for consideration of the appeal. The DLGF reviews the petition and the financial information and makes a recommendation to the Commissioner of the DLGF. The Commissioner of the DLGF will make the final decision and an order will be issued to reflect the final determination.

Applications that do not include the required information may be denied. The Director may not submit a new application until the next subsequent taxing year.

### Time-frame

A library board must consider the application for an appeal during budget preparation. **Any excessive levy appeals become part of the library budget estimates for the ensuing calendar year. When the executive officer is preparing budget estimates for the ensuing calendar year, the amount of the excessive levy appeal you wish to be considered by the Library Board and by the DLGF must be included in**

**your estimated levy on line 16 and budget estimate reflected on line 1 of Library Form 4B.** This levy figure must be inflated above your current maximum levy limitation to support consideration of an appeal. Ex: If an appeal for a correction of an advertising error is pursued and the fiscal officer foresees an increase in levy of \$10,000 then the net amount to be raised on Line 16 of Form 4B should include the \$10,000 appeal to be considered by the Library Board and Department of Local Government Finance plus the normal levy requested. If a Library Board fails to adopt the excessive levy appeal requested, the Department of Local Government Finance will not consider the request. It is the fiscal officer's responsibility to advertise and adopt high enough for consideration of an appeal.

**In addition, the fiscal officer must include the amount of the appeal on the excessive levy appeal line of the advertised budget form 3.** This notifies taxpayers that an appeal will be considered by the local fiscal body. Exclusion of the amount of the appeal results in a denial of the appeal.

### **Application**

Each year, the Department of Local Government Finance mails to each fiscal officer a "Report of Appealing Taxing Unit" that identifies the type of excessive levy appeals available to all taxing units for the ensuing calendar year. The appeal petition is submitted directly to the Department of Local Government Finance's Budget Division, Indianapolis Office. Taxing units may copy their Budget Field Representative with the appeal paperwork; however, it is the taxing unit's responsibility to ensure the appeal is filed with the Department of Local Government Finance's Indianapolis Central Office.

The fiscal officer must complete the top section of the appeal application (Report of Appealing Taxing Unit), which provides the Budget Division with the appropriate mailing information. The blanks include the library's name, county, fiscal officer's name, address, city/state/zip, telephone, and fax. The hearing notice will be mailed to the name and address listed in this section.

The fiscal officer must indicate the type and amount of appeal to be considered on the first page of the appeal application by filling in the dollar amount of the requested levy increase next to the appropriate appeal type. The Administrative Officer for the DLGF budget division must be able to identify which appeal the fiscal officer is applying for before it will be considered.

The fiscal officer must specify why an appeal is necessary. This should not consist of a general statement that expenses have increased. The fiscal officer should specify which costs have increased or what services cannot be provided to taxpayers and the explanation should support the entire need for the appeal. Additional pages can be attached if the space provided is not ample.

**1) Annexation, consolidation or other extensions of governmental services to additional geographic areas or persons:** This appeal is applicable to libraries that

expand services to additional geographic areas (such as a township) that did not previously have library services. The appeal allows a library to collect additional revenues to support the increased operating costs due to the extension of services. Copies of any annexation/extension of services ordinances must be provided to the DLGF Administrative Officer. Libraries must also detail the line item increases in the budget associated with the cost of providing more services. Annexations/extensions of services occurring after March 1 of the current year are not included on this appeal but would be eligible for consideration during the ensuing calendar year. This appeal results in a permanent increase to the unit's maximum levy.

- 2) **Three-year growth factor:** This appeal is applicable to taxing units that experience excessive growth over a three-year period. A unit qualifies for the appeal if its average assessed value growth quotient (AVGQ) over the last three years exceeds the statewide average growth quotient by at least 2%. The statewide average growth quotient is based on the six-year average statewide growth in Indiana Non Farm Personal Income and can be found on the unit's maximum levy worksheet. Because the six-year average of Indiana Non Farm Personal Income changes each year, the library must annually calculate the average in accordance with the excessive levy appeal forms available through the Department of Local Government Finance.

The amount of growth factor allowable for this appeal is the difference between the Statewide Average Growth Factor and the library's three-year assessed value growth. This appeal results in a permanent increase to the unit's maximum levy.

To calculate the library's three-year growth factor, the following formula can be used:

- Step 1:** Determine your certified assessed values for the last four years.
  - Step 2:** Calculate your assessed value growth for each of the last three years.
  - Step 3:** Calculate the average assessed value growth quotient by taking the sum of the results of Step 2 and dividing by three (3).
  - Step 4:** Calculate the amount of increase to the maximum levy. The amount of increase is calculated as follows: average assessed value growth quotient minus the statewide maximum levy growth factor equals the percent of increase to the maximum levy (this would be in addition to the automatic increase in levy).
- 3) **Correction of advertising errors, mathematical errors or errors in data.** This appeal allows a taxing unit to increase its maximum levy for a correction of an advertising error, a mathematical error, or an error in data. The unit must provide documentation that identifies the type and amount of errors made. The Department of Local Government Finance will review the information presented and consider the appeal. This appeal is temporary and results in an increase in levy for one year only.
- 4) **Shortfall due to erroneous assessed valuation:** This appeal is applicable to taxing units that experience a shortfall of property taxes due to an erroneous assessed value, or refunds due to successful appeals. The unit must state the specific cause of the shortfall and provide the following: Form 22's (Certificate of Tax Distribution) for all

funds within the maximum levy, County Form 127CER (Register of Certificates of Error), and County Form 17TC (Certificate of Tax Refund Claims). Shortfall appeals without the appropriate documentation may be subject to disapproval and no shortfalls will be considered for delinquent tax payments. Anticipated shortfalls based on current year distributions will not be considered unless the unit can prove extreme financial hardship. This appeal is temporary and results in an increase in levy for one year only.

### ***Documentation Required for All Appeal Types***

All excessive levy appeal requests must include the following information in addition to the type of information required for the type of appeal under consideration:

- Report of appealing taxing unit.
- Ensuing year maximum levy sheet for funds under appeal.
- Ensuing year budget proof of publication
- Estimate of miscellaneous revenue (Budget Form 2) for funds under appeal.
- “16 Line” Financial Statement (Budget Form 4B) for funds under appeal.
- Resolution from fiscal body approving the excessive levy appeal.
- Two copies of all of the above.

### ***Recommendation to the Commissioner***

The DLGF Budget Division reviews the appeal information and ensures proper procedures have been followed. The Division makes a recommendation to the Commissioner either to approve, reduce, or disapprove an appeal request. The Commissioner will make a decision based on the information presented and, in some cases, testimony given. An order will be issued reflecting the final decision of the Commissioner.

### ***Additional Levy***

If the Department of Local Government Finance approves an excessive levy appeal for a library, the amount will be “worked” in before certification of budgets, tax rates and tax levies for the library.

# *Summary*

## **Chapter 7: Excessive Levy Appeal Process**



*In this section, we have discussed the following:*

- *What an excessive levy appeal is and the process to file an appeal.*
- *There are several appeals available to libraries.*
- *The Budget Division of the Department of Local Government Finance makes a recommendation to the Commissioner.*
- *Appeals must be considered as part of the local budget process.*