

# Indiana

Department of Local Government Finance



*Committed to a fair and equitable property tax system for Hoosier taxpayers.*

# Understanding Tax Abatement Process

John Toumey – Assessor Auditor 1

Terry Knee – Supervisor

Assessment Division

August 2011



# Resource Information

---

- Indiana Code - IC 6-1.1-12.1
- Indiana Administrative Code - 50 IAC 10
- Most common used forms



# Today's Class Will Cover:

---

- Basic definitions
- Steps in establishing an abatement
- Different types of abatement
- How the taxpayer claims the deduction
- How the Assessor reviews the deduction
- Common problems
- Waiver of Non Compliance
- Problem solving options for consideration
- Local Control



# Basic Definitions

---

- Personal Property Abatement
  - A property tax deduction from the assessed valuation granted by a designating body for the installation of qualifying abatable equipment in an ERA



# Basic Definitions

---

- Economic Revitalization Area (ERA)
  - An area that is within the corporate limits of a city, town, or county that has become undesirable for, or impossible of, normal development and occupancy.
  
- It is a legal description for a piece of real estate.
  
- If ownership transfers, the designation transfers with the property. (IC 6-1.1-12.1-5.4)



# Basic Definitions

---

- Designating body
  - Also called a “governing body”
  - For a county without a consolidated city, the designating body is the fiscal body of the city, town, or county.
  - For a consolidated city, the designating body is the metropolitan redevelopment commission.
  - IC 6-1.1-12.1-1(D)(7)



## 50 IAC 10-1-2

---

- “Installed” defined
  - Section 2(a) “Installed” means that personal property:
    - (1) has been completely assembled;
    - (2) is completely functional for the purpose for which it was acquired; and
    - (3) is placed in service.



## 50 IAC 10-1-2 (cont'd.)

---

- “Installed” defined
  - Section 2(b):
  - When different pieces of personal property are linked together as part of an integrated production process, personal property will not be considered installed until the integrated production process is completely functional and is placed in service.



# Frequently Asked Question

---

**Question:** So if the equipment is present at the facility and not installed, how is that situation handled?

**Answer:** 50 IAC 4.2-6-1 classifies this equipment as “Construction In Process” (CIP) and assesses it at 10% of cost with no abatement deduction allowed on it. (In most cases, the abatement will begin the following year.)



## 50 IAC 10-1-3

---

- “New Manufacturing Equipment” defined
  - (a) “New manufacturing equipment” has the meaning found in IC 6-1.1-12.1-1(3). In order to be new manufacturing equipment, personal property must be qualified machinery and equipment as defined in Section 6 of this rule.
  - (b) New manufacturing equipment includes new equipment and used equipment brought into Indiana from outside of Indiana.



## 50 IAC 10-1-6

---

- “Qualified machinery and equipment” defined
  - Section 6(a):
  - Direct Production of
  - Manufacturing of
  - Fabricating of
  - Assembly of
  - Extracting of



## 50 IAC 10-1-6 (cont'd)

---

- “Qualified machinery and equipment” defined
  - Section 6(a):
  - Mining of
  - Processing of
  - Refining of
  - Finishing of other tangible personal property



## 50 IAC 10-1-6 (cont'd.)

---

- “Qualified machinery and equipment” defined
  - Personal property will be qualified machinery and equipment when it is used within the process that chronologically begins with:
    - Material handling equipment that carries the raw material from its on-site storage location to the first production step.
    - Example: The crane that lifts the coil of steel to the press that stamps out a car fender.



## 50 IAC 10-1-6 (cont'd.)

---

- “Qualified machinery and equipment” defined
  - Ends with the material handling equipment that carries or moves the finished product from its final machine or production step to the in-plant finished good storage site.
  
  - Example: The fork lift that moves the finished product from the production line to a shelf in the finished goods warehouse.



# **Steps In Establishing An Economic Revitalization Area**



# Establishing An ERA

---

- A designating body can designate an ERA on its own or upon application of a property owner.
- If designating body works on its own, no Statement of Benefits (SB-1/PP) is necessary for a preliminary designation; however, one will be required later when finalizing the details for a new business that desires to locate there.
- If the property owner asks for an ERA designation, a Form SB-1/PP must be filed.



# Statement of Benefits – Personal Property (Form SB-1/PP)

---

- The form on which the property owner submits information regarding the installation of new manufacturing, research and development, logistical distribution, or information technology equipment to the designating body
- This form should be incorporated into the designation process.



# Types of Proposed Projects

---

- A) Manufacturing
- B) Research & Development
- C) Information Technology
- D) Logistical Distribution



# Research & Development

---

- Equipment installed after June 30, 2000, consists of:
  - (i) Laboratory equipment
  - (ii) Research & development equipment
  - (iii) Computers & computer software
  - (iv) Telecommunications equipment; or
  - (vi) Testing equipment



# Research & Development

---

- The deduction applicant uses in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products;



# Logistical Distribution Equipment

---

- Installed after June 30, 2004, consists of:
  - (i) racking equipment;
  - (ii) scanning or coding equipment;
  - (iii) separators;
  - (iv) conveyors;
  - (v) fork lifts or lifting equipment (including "walk behinds");



# Logistical Distribution Equipment

---

- (vi) transitional moving equipment;  
(vii) packaging equipment;  
(viii) sorting and picking equipment; or  
(ix) software for technology used in  
logistical distribution.
- The equipment acquired for the storage or  
distribution of goods, services or information.



# New Information Technology Equipment

---

- Installed after June 30, 2004, consists of equipment, including software, used in the fields of:
  - (i) information processing;
  - (ii) office automation;
  - (iii) telecommunication facilities and networks;
  - (iv) informatics;
  - (v) network administration;
  - (vi) software development; and
  - (vii) fiber optics.



## Statement of Benefits – Personal Property (Form SB-1/PP) (cont'd.)

---

- The Form SB-1/PP provides information on the proposed project and is an estimate of costs, jobs created, etc. This is done before the project begins.
- A taxpayer could have a single or multiple Form SB-1/PP's which could cover several projects over a number of years.



## Statement of Benefits – Personal Property (Form SB-1/PP) (cont'd.)

---

- The reason why the Form SB-1/PP is so important is because the designating body must determine if the totality of the benefits (number of jobs, salaries, & other benefits) is sufficient to justify the deduction being requested.
- IC 6-1.1-12.1-3



## Statement of Benefits – Personal Property (Form SB-1/PP) (cont'd.)

---

- The taxpayer must attach an approved copy of Form SB-1/PP to his personal property return.
  - Page 1 is completed and signed by the taxpayer.
  - Page 2 is completed and signed by the designating body. It sets the limits and guidelines for the abatement.



## Statement of Benefits – Personal Property (Form SB-1/PP) (cont'd.)

---

- It is important that the designating body complete the top section of page 2, as it can limit the time period of the ERA area, place dollar limits on cost / assessed value of the ERA eligible property.
- If this section is not completed then there is no limit on length of time to install equipment. Also, the dollar amount of additions can exceed the estimate on page 1.



# Establishing An ERA

---

Establish the geographical area by:

- The designating body makes a determination.
  - Prepares maps and plats that identify the area
  - Prepares a simplified description of property boundaries
  - Passes a preliminary resolution
- After approving a preliminary resolution, the designating body publishes a notice of adoption and substance of resolution.



# Establishing An ERA

---

- The designating body's final action is to determine whether the qualifications for an ERA are met and to confirm, modify or rescind the preliminary resolution.
- If confirmed, a confirmatory resolution is passed.
- Minutes to a council meeting do not qualify as a resolution.



# Resolution

---

- According to IC 6-1.1-12.1-2.5, the resolution declares an area as an economic revitalization area.
- The resolution specifies the abatement schedule.
- The resolution could contain an expiration date when the designation ceases to exist or other limitations or conditions.



# Resolution

---

- If there is an expiration date of the ERA designation, it is simply the window of opportunity in which a company can install new abatable equipment and receive a deduction.
- This expiration date can easily be extended or renewed.



# Abatement Fee

---

- Authority to impose a fee given to any designating body within the State of Indiana who has the power to grant an abatement.
- The fee amount is set by the designating body and the property owner.
- The fee is calculated by the County Auditor and paid to the County Treasurer.
- See IC 6-1.1-12.1-14



# Unauthorized Facilities

## IC 6-1.1-12.1-3 (e)

---

- The following facilities are not authorized to receive a deduction:
  - Golf courses; country clubs; massage parlors; tennis clubs; skating facilities; handball / racquetball facilities; hot tub facilities; suntan facilities; racetracks; any facility that has a primary purpose of retail food & beverage, automobile sales & service, or other retail unless...



# Unauthorized Facilities

## IC 6-1.1-12.1-3 (e)

---

- ...an economic development target area is established. (IC 6-1.1-12.1-7)
- Residential facilities may not be approved unless it is multi-family of which at least 20% of the units are for low – moderate income individuals OR is in an economic development target area OR is designated as a residentially distressed area;
- Or a package liquor store.



# **Filing Requirements for Taxpayers on Tax Abatements**



# Self Assessment System

---

- Taxpayer is responsible for filing the personal property assessment return (Form 103-Long) in a timely manner with the proper assessing official.
- Assessors do not have the authority to file a return for the taxpayer; however, the Assessor can assist the taxpayer.
- Taxpayer MUST sign the return.



## IC 6-1.1-12.1-5.4

---

- A person that desires to obtain the deduction must attach a certified deduction schedule (Form 103-ERA) with his/her timely filed personal property return (Form 103-Long) and file it with the proper assessing official.



# Compliance with Statement of Benefits (Form CF-1/PP)

---

- Form CF-1/PP must be filed with the designating body and the Assessor of the township where the equipment resides each year a personal property abatement deduction is requested.
- Must be filed between March 1 and May 15 or the approved extension date



# Compliance with Statement of Benefits (Form CF-1/PP)

---

- Compliance information for multiple projects may be consolidated on one Form CF-1/PP with approval of the designating body.
- The taxpayer attaches an approved copy of Form CF-1/PP to his return.
  - Page 1 is signed by taxpayer.
  - Page 2 is completed by the designating body. (Is the taxpayer in compliance?)



# Compliance with Statement of Benefits (Form CF-1/PP)

---

- The major difference between the Form SB-1/PP and the Form CF-1/PP is that the SB-1/PP is an estimate of the project before it begins and the CF-1/PP is a summary of the actual information after the project has been completed.
- The Form SB-1/PP structures the deduction and the Form CF-1/PP approves the deduction.



# Reviewing the Abatement Using the Abatement Calendar



# Timetable for PP Review

---

- The taxpayer files the tax return and supporting schedules by May 15 or the extended due date, if any.
- The Township or County Assessor has until September 15 or 4 months from the extended due date to review the tax return .



# Timetable for PP Review

---

- The County Board of Appeals (PTABOA) has until October 30 or 5 months to review the return.
- Taxpayer has until November 15 or 6 months from the extended due date to amend the return. **This has been extended to twelve (12) months for returns with a filing date after May 14, 2011 – (See IC 6-1.1-3-7.5)**



# Request for Extension

## IC 6-1.1-3-7

---

- A taxpayer may request up to a thirty (30) day extension to file his/her tax return by filing a written request prior to the filing date.
- Assessors may grant, deny, or give a partial extension at their discretion with a written reply.



## IC 6-1.1-12.1-5.4(e)

---

For Abatement Deductions:

- The assessing official may review the deduction schedule and has until the next February 28 to deny or alter.
- However, it is recommended to use the four and five month deadlines. Waiting until February 28 could cause problems with tax rates and shortfalls.



# IC 6-1.1-16-1

---

- If the assessing official fails to change an assessment within the time prescribed, the assessed value claimed by the taxpayer is final.



# **Verification of Personal Property Tax Abatements**



## IC 6-1.1-3-14

---

- The Township or County Assessor shall examine and verify the accuracy of personal property tax returns.



## IC 6-1.1-12.1-5.4

---

- The Assessor may approve, deny or alter the amount of the deduction.
- The Assessor shall notify the taxpayer of any changes made in the deduction amount on Form 113/PP which allows the taxpayer to challenge the change if desired.



# Form 103-ERA

---

- Schedule of Deduction from Assessed Valuation
- Required to be filed **each** year, a deduction is desired even if no new abatable equipment is installed in that assessment year.
- Form must be filed with the assessing official of the county in which the abatable equipment is located.



# Equipment List (Form 103 EL)

---

- The list must be itemized and contain installation dates and cost.
- An equipment list is only needed for equipment installed since the last assessment date.



# Equipment List (Form 103-EL)

---

- The Assessor should verify if all of the equipment listed qualifies for a personal property abatement and deduct any non-qualifying equipment from the list.
- Any changes to the assessment require notification to the taxpayer on a Form 113/PP. (IC 6-1.1.3-20)



# Confidential information

---

- IC 6-1.1-35-9 affects:
  - All assessing officials, employees, and anyone under contract to any assessing official
  - All information that is related to earnings, income, profits, losses, or expenditures
- Disclosure of confidential information can carry severe penalties.
- What's public information? Assessed Value



# Supplements to Form 103-Long

---

- Any supplemental information or forms attached to Form 103-Long that support the return are subject to same confidential standard as that for Form 103-Long.



# **Solving Problems That May Arise**



# Incomplete Filing

---

- What if the filing is not complete? For example, what if the Statement of Benefits is missing?
- The Assessor can send a request for information giving 10 days to provide it or the Assessor can deny the claim and send a Form 113/PP.



# Late Filing

---

- IC 6-1.1-12.1-5.4 states the taxpayer must file a certified deduction schedule with a timely personal property return if they wish to receive an abatement.
- A return filed late which includes a Form 103-ERA should have the deduction denied immediately.



# Waiver of Noncompliance

---

- Taxpayer can request a waiver of non-compliance through the designating body.
- If the designating body wishes to waive non-compliance, they shall conduct a public hearing and then may adopt a resolution.
- IC 6-1.1-12.1-11.3



# Waiver of Noncompliance

---

- IC 6-1.1-12.1-11.3 covers:
- Failure to submit Form SB-1 to designating body before hearing.
- Failure to submit Form SB-1 to designating body before project begins.
- Failure to designate ERA zone before project begins.



# Waiver of Noncompliance

---

- IC 6-1.1-12.1-11.3 covers:
- Failure to make the required findings of fact before designating the area
- Failure to file a timely application
- Failure to file a complete application
- It does not give the designating body the authority to grant abatements on assets that don't qualify.



# Frequently Asked Question

---

## **Question:**

If the taxpayer fails to claim an abatement for the first three years of the ten year abatement cycle, could we begin the first year of the abatement cycle in the equipment's fourth year?



# Frequently Asked Question

---

## **Answer:**

No, the tax abatement cycle begins when the equipment is installed and ready for use. In this example, the taxpayer can claim the abatement in the fourth year of the ten year cycle or request a waiver of non-compliance from the designating body for the past unclaimed deductions.



# Frequently Asked Question

---

## **Question:**

But won't granting a waiver of non-compliance on unclaimed deductions create shortfalls?

## **Answer:**

Yes, most likely shortfalls in the budget could be created so the designating body should consider the facts and their options before making a decision.



# An Unclaimed Deduction, Waivers, & Amended Returns

---

- When a taxpayer fails to claim the abatement deduction on his timely filed return, he may request a Waiver of Non-Compliance hearing after he receives his tax bill.
- To grant the waiver could mean a shortfall to the local units of government; however, the designating body may feel that the taxpayer deserves the deduction.



# Local Control

---

- There are many scenarios when it comes to dealing with tax abatement issues.
- The facts for each situation will need to be reviewed and discussed by the designating body who have the option of getting legal advice from their attorney.
- Tax abatements are given locally and local control prevails when resolving these issues.



# Real Property Abatements

---

- While this presentation focused on personal property abatements, a great deal of the process discussed applies to real property abatements as well.
- The designating body will establish an ERA.
- The Form SB-1/Real Property, a resolution, & Form CF-1/Real Property will need to be completed.
- A deduction application will have to be filed in order to receive the deduction (Form 322/RE).



# Real Property Abatements

---

- The main differences between the real property abatement process and the personal property process are:
  - Self Assessment (PP) versus the Assessor generating the assessed value that the Auditor applies the deduction to (RP).
  - Annual filing for the deduction by the taxpayer (PP) versus a single filing for the improvements for that assessment date (Real Property).



# Real Property Abatements

---

- The annual recalculation of the deduction is done by the taxpayer for personal property while the Assessor & the Auditor work together to calculate the deduction for real property. This can become quite complex with layers of abatements (multi-year projects built in phases) combined with annual adjustments and general reassessments.



# Understanding The Tax Abatement Process

---

- Any Questions?



# Contact Us

---

- John Toumey
  - Telephone: 317-650-6849
  - E-mail: [jtoumey@dlgf.in.gov](mailto:jtoumey@dlgf.in.gov)
  - Web site: [www.in.gov/dlgf](http://www.in.gov/dlgf)
  - “Contact Us” <http://www.in.gov/dlgf/2338.htm>



# Contact Us

---

- Terry Knee
  - Telephone: 317-519-1809
  - E-mail: [tknee@dlgf.in.gov](mailto:tknee@dlgf.in.gov)
  - Web site: [www.in.gov/dlgf](http://www.in.gov/dlgf)
  - “Contact Us” <http://www.in.gov/dlgf/2338.htm>