
STATE OF INDIANA

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TO: Assessing Officials

FROM: Department of Local Government Finance

RE: Legislative Changes to the Assessment Appeals Process

DATE: July 2007

Senate Enrolled Act 287-2007 (“SEA 287”), which was passed during the 2007 Legislative Session, makes significant changes to the assessment appeals process. These changes, which can be found in sections 37 through 47 of SEA 287, are to Indiana Code § 6-1.1-15 and became effective July 1, 2007. This memo is provided to assist assessing officials in implementing the amended appeal procedures.

NEW TERMINOLOGY

SEA 287 added Indiana Code § 6-1.1-15-0.5, which introduces the term “county board.” This term is used throughout the amended Indiana Code § 6-1.1-15 and refers to the county property tax assessment board of appeals (“PTABOA”). This new term does not affect the authority of the county PTABOAs, but rather provides a shorter term for the same body. In effect, these terms are interchangeable.

SEA 287 also introduced the term “notice for review,” which is used throughout the amended Indiana Code § 6-1.1-15. The term “notice for review” is used in place of the term “appeal” for taxpayer appeals at the county level.

APPEALS AFFECTED BY THE AMENDED PROCEDURES

The amended appeal procedures apply only to appeals *initiated on or after July 1, 2007*. However, this also includes when an existing appeal is appealed to the next level of review (i.e. when a determination of a county PTABOA is appealed to the Indiana Board of Tax Review (“IBTR”); or when an IBTR determination is appealed to the Indiana Tax Court).

In other words, if a taxpayer appealed his or her assessment *before July 1, 2007*, assessing officials should follow the old appeal procedures for that stage of the appeal. If an appeal is initiated *on or after July 1, 2007*, or if the appeal moves to the next level of review *on or after July 1, 2007*, assessing officials should follow the amended appeal procedures set forth in SEA 287.

CHANGES TO THE ASSESSMENT APPEALS PROCESS

Following is a chart illustrating only the changes made to the assessment appeals process. If a requirement or practice related to assessment appeals is not mentioned below, no change was made in recent legislation and you should continue to follow current practices.

ACTION BY TAXPAYER OR ASSESSING OFFICIAL	APPEALS INITIATED <i>BEFORE</i> JULY 1, 2007	APPEALS INITIATED <i>ON OR AFTER</i> JULY 1, 2007 (including existing appeals appealed to the next level of review <i>on or after</i> July 1, 2007)
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<p>Initiating an appeal [IC 6-1.1-15-1]</p>	<p>The taxpayer must request, in writing, a preliminary conference with the assessing official:</p> <ul style="list-style-type: none"> • <u>For 2006 pay 2007 taxes only:</u> Not later than the later of (a) 45 days after the tax statement under IC 6-1.1-22 or the provisional tax statement under IC 6-1.1-22.5 is given to the taxpayer; or (b) July 1, 2007. NOTE: If a taxpayer properly appealed his 2006 pay 2007 assessment based on the receipt of a Form 11, this <i>does not</i> provide an <i>additional</i> appeal period. A taxpayer may not appeal the same assessment more than once for the same assessment year. • <u>For appeals filed in a calendar year before 2010:</u> Either (a) not later than 45 days after the date of the Form 11; or (b) if a Form 11 notice is not given, on or before May 10 of the assessment year. • <u>For appeals filed in a calendar year after 2010:</u> Either (a) not later than 45 days after the date of the Form 11; or (b) if a Form 11 notice is not given, not later than the later of (i) May 10 of the assessment year or (ii) 45 days after the mailing of the auditor’s statement under IC 6-1.1-17-3(B). <p><u>NOTE FOR ALL APPEALS:</u> If a Form 11 notice is required but is not sent, the taxpayer’s notice for purposes of an appeal is the taxpayer’s bill (IC 6-1.1-15-13). Therefore, the taxpayer may appeal not later than 45 days after the date of the tax bill.</p>	<p>A written notice for review must be filed with the assessing official:</p> <ul style="list-style-type: none"> • <u>For 2006 pay 2007 taxes only:</u> Not later than the later of (a) 45 days after the tax statement under IC 6-1.1-22 or the provisional tax statement under IC 6-1.1-22.5 is given to the taxpayer; or (b) July 1, 2007. NOTE: If a taxpayer properly appealed his 2006 pay 2007 assessment based on the receipt of a Form 11, this <i>does not</i> provide an <i>additional</i> appeal period. A taxpayer may not appeal the same assessment more than once for the same assessment year. • <u>For assessment dates in 2007 and 2008 only:</u> Either (a) not later than 45 days after the date of the Form 11; or (b) if a Form 11 notice is not given, on or before May 10 of the assessment year. • <u>For assessment dates after 2008:</u> Either (a) not later than 45 days after the date of the Form 11; or (b) if a Form 11 notice is not given, not later than the later of (i) May 10 of the assessment year or (ii) 45 days after the mailing of the auditor’s statement under IC 6-1.1-17-3(B). <p><u>NOTE FOR ALL APPEALS:</u> If a Form 11 notice is required but is not sent, the taxpayer’s notice for purposes of an appeal is the taxpayer’s bill (IC 6-1.1-15-13). Therefore, the taxpayer may appeal not later than 45 days after the date of the tax bill.</p>
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Requirements for the Written Notice [IC 6-1.1-15-1]	Written request for a preliminary conference must include: <ul style="list-style-type: none"> • Name of the taxpayer • Address and parcel/key number of the property • Address and telephone number of the taxpayer NOTE: An official form is not required.	Written notice for review must include: <ul style="list-style-type: none"> • Name of the taxpayer • Address and parcel/key number of the property • Address and telephone number of the taxpayer NOTE: An official form is not required.
Changes in assessment [IC 6-1.1-15-1]	<ul style="list-style-type: none"> • A change in assessment from a timely-filed appeal carries over from year to year until the next assessment date for which the assessment is changed. (This principle was upheld in case law, but not codified in statute.) • A change in assessment from an appeal filed late is effective for the next assessment date and continues from year to year until the next assessment date for which the assessment is changed. 	<ul style="list-style-type: none"> • A change in assessment from a timely-filed notice for review carries over from year to year until the next assessment date for which the assessment is changed (including a change in assessment during the next annual adjustment). • A change in assessment from a notice for review filed late is effective for the next assessment date and continues from year to year until the next assessment date for which the assessment is changed.
Preliminary Conference [IC 6-1.1-15-1]	<ul style="list-style-type: none"> • A preliminary conference is required before a taxpayer proceeds to the PTABOA. • The assessor must attempt to hold the preliminary conference within 30 days of the taxpayer’s written request and resolve as many issues as possible by discussing the topics listed in the former IC 6-1.1-15-1(f). • Within 10 days after the conference, the assessor forwards the results to the county auditor and the PTABOA on a form prescribed by the department of local government finance (“Department”), detailing the issues raised and the assessor’s 	<ul style="list-style-type: none"> • A preliminary conference is no longer required before a taxpayer proceeds to the PTABOA. However, if the taxpayer requests an informal meeting before the PTABOA hearing is held, the assessor must meet with the taxpayer to attempt to resolve issues or seek a joint recommendation for settlement. • If a joint recommendation is reached at the informal meeting, the taxpayer and assessor must present it to the PTABOA at the scheduled hearing date. The PTABOA

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	<p>responses.</p> <ul style="list-style-type: none"> • If the taxpayer and assessor <i>agree</i> on all items listed on the form submitted to the county PTABOA: <ul style="list-style-type: none"> ○ the assessor notifies the taxpayer, PTABOA, and county assessor of the assessment in the amount agreed to by the taxpayer and the assessor; and ○ the PTABOA may reserve the right to change the assessment. 	<p>may adopt or reject the recommendation in whole or in part.</p>
<p>Timeframe for holding the PTABOA hearing and issuing a determination [IC 6-1.1-15-1]</p>	<ul style="list-style-type: none"> • Except in Marion, Lake, and Allen Counties, and real property appeals during a general reassessment year, the hearing must be held within 90 days after the assessor receives the taxpayer's written request for a preliminary conference. • The PTABOA must have a written record of the hearing and prepare a written statement of findings and a decision on each item within sixty 60 days after the hearing. • In Marion, Lake and Allen Counties, or if the appeal regards an assessment of real property during a general reassessment, the hearing must be held within 180 days and a decision on each item must be issued within 120 days. • If the township assessor does not attempt to hold a preliminary conference, the taxpayer may request a hearing before the county PTABOA and the PTABOA is required to hold a hearing within 90 days of receiving the taxpayer's request. 	<ul style="list-style-type: none"> • In all counties, the PTABOA must hold a hearing within 180 days after the date that notice of appeal was filed. • The PTABOA shall prepare a written decision resolving all issues and mail notice of the decision within 120 days after the hearing date.

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Parties at the PTABOA hearing [IC 6-1.1-15-1]	<ul style="list-style-type: none"> Assessing official who made the determination under appeal 	<ul style="list-style-type: none"> Assessing official who made the determination under appeal
Notice by the County Auditor to the affected taxing unit [IC 6-1.1-15-1]	<ul style="list-style-type: none"> The County Auditor must give notice of an appeal to the affected taxing unit if at least 1% of that taxing units' total gross certified assessed value is involved in the appeal. 	<ul style="list-style-type: none"> No notice to the affected taxing unit is required. Taxing units are no longer allowed to participate in assessment appeals regardless of the amount of the taxing units' total gross certified assessed value involved. The assessing official who made the assessment is the <u>only</u> party at the county PTABOA hearing. The county assessor is the <u>only</u> local official who is a party to the appeal at the IBTR.
PTABOA Hearing [IC 6-1.1-15-1]	<ul style="list-style-type: none"> If after the conference the taxpayer and assessor <i>disagree</i> regarding items listed on the form submitted to the county PTABOA, the county PTABOA shall hold a hearing. The county PTABOA must give notice of the hearing date to the taxpayer, the township assessor, the county assessor, and the county auditor. The notice must also include: <ul style="list-style-type: none"> The assessed value of the appealed items for the assessment date immediately preceding the assessment date for which the appeal was filed and the assessed value on the most recent assessment date; and A statement that a taxing unit required to receive notice from the county auditor under IC 6-1.1-15-2.1(c) may attend the hearing, offer testimony, and file an <i>amicus curiae</i> brief. 	<ul style="list-style-type: none"> The assessor receiving notice of appeal must immediately forward the notice to the county PTABOA, regardless of whether a preliminary conference is requested. The county PTABOA must give notice of the date, time, and place of the hearing to the taxpayer and the assessor. At the hearing, the taxpayer may present reasons for disagreement with the assessment, and the assessor must present the basis for the assessment decision and the reasons the taxpayer's appeal should be denied.

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Appealing a PTABOA Determination [IC 6-1.1-15-1]	<ul style="list-style-type: none"> • The taxpayer must receive a determination from the county PTABOA before appealing to the IBTR. 	<ul style="list-style-type: none"> • If the PTABOA does not (a) hold the hearing or (b) make a decision within the time allowed, the taxpayer may wait for the PTABOA to take the appropriate action OR choose to appeal directly to the IBTR at any time.
Actions that may be appealed to the IBTR [IC 6-1.1-15-3]	<ul style="list-style-type: none"> • A taxpayer may appeal an assessment of tangible property if the PTABOA's action required the giving of notice to the taxpayer. 	<ul style="list-style-type: none"> • A taxpayer may appeal: <ul style="list-style-type: none"> (1) An assessment of tangible property if the PTABOA's action required the giving of notice to the taxpayer; AND/OR (2) An exemption of tangible property if the taxpayer receives notice of an exemption determination by the PTABOA.
Parties to an appeal to the IBTR or Indiana Tax Court [IC 6-1.1-15-3, 5]	<ul style="list-style-type: none"> • Taxpayer AND: Township assessor, county assessor, member of the PTABOA, or the county PTABOA, whichever party made the original assessment determination. • A township or county assessor may appeal the decision of the PTABOA to the IBTR if either disagrees with the decision. • The county assessor may (1) appear as an additional party if the notice of appearance is filed before the review proceeding or (2) with the approval of the township assessor, represent the township assessor. 	<ul style="list-style-type: none"> • Taxpayer AND county assessor • The county assessor is the only local official who: <ul style="list-style-type: none"> ○ Can appeal the decision of the PTABOA and only if he or she dissented from the PTABOA's determination; and ○ Is a party to the appeal. • Taxing units may not participate in appeals, regardless of whether 1% of that taxing units' total gross certified assessed value is involved in the appeal.
Procedure for filing an appeal with the IBTR [IC 6-1.1-15-3]	<ul style="list-style-type: none"> • The party must file a petition for review within <i>30 days</i> after the date of the notice from the county PTABOA. • The petition for review of an assessment must be filed with 	<ul style="list-style-type: none"> • The party must file a petition for review within <i>45 days</i> after the date of the notice from the county PTABOA, including a denial of an exemption. • The petition for review must be

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	<p>the <i>county assessor</i> on a Form 131.</p> <ul style="list-style-type: none"> • The petition for review of an exemption is filed with the <i>county assessor</i> on a Form 132 within 30 days of the PTABOA’s notice of denial (IC 6-1.1-11-7(c)). 	<p>filed <i>directly with the IBTR</i> on a Form 131.</p> <ul style="list-style-type: none"> • The appealing party must mail a copy of the petition to the opposing party. NOTE: These parties would only include the taxpayer and the county assessor.
<p>Notice; Timeframe for holding the IBTR hearing and issuing a determination [IC 6-1.1-15-4]</p>	<ul style="list-style-type: none"> • The IBTR must provide at least 30 days notice of the hearing to the parties. • The IBTR shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. <ul style="list-style-type: none"> ○ The notice must state (1) the action of the county PTABOA; (2) statement that a taxing unit receiving the notice from the county auditor that 1% of that taxing units’ total gross certified assessed value is involved in the appeal may attend the hearing; and offer testimony. • After the hearing, the IBTR must give the appealing party, the township assessor, the county assessor, and the county auditor: <ul style="list-style-type: none"> ○ notice, by mail, of its final determination; ○ a copy of the processing form; and ○ notice of the procedures they must follow in order to obtain court review. ○ The county auditor shall provide copies of these documents to the taxing units entitled to notice. 	<ul style="list-style-type: none"> • The IBTR may schedule a hearing with less than 30 days notice IF all parties agree. • The IBTR shall give notice of the date fixed for the hearing, by mail to the county assessor. • After the hearing, the IBTR must give the taxpayer, the county assessor, and any entity filing an <i>amicus curiae</i> brief (which is a non-party who files a brief in support of a certain position): <ul style="list-style-type: none"> ○ notice, by mail, of its final determination; and ○ notice of the procedures they must follow in order to obtain court review for parties entitled to appeal.

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<p>Review by the IBTR [IC 6-1.1-15-4]</p>	<ul style="list-style-type: none"> • The IBTR may (1) assign full, limited, or no evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and (2) correct any errors that may have been made, and adjust the assessment in accordance with the correction. • The IBTR shall prescribe a form for use in processing petitions as stated in the former IC 6-1.1-15-4(e). • The IBTR’s final determination must comply with the requirements of the former IC 6-1.1-15-4(l) (the new (j)) and the former IC 6-1.5-5-4(a). • The parties may be required to make certain filings according to the former IC 6-1.1-15-4(n)-(o) (the new subsections (l)-(m)). • IBTR administrative law judges (ALJs) are required to submit written reports of findings of fact and conclusions of law to the IBTR according to the former IC 6-1.5-5-4(a). • The IBTR may base its final determination on a stipulation between the respondent and the petitioner according to the requirements of former IC 6-1.1-15-4(q) (the new subsections (n)). • If the IBTR’s determination is <i>not</i> based on a stipulation between the parties, the determination must be based on: <ul style="list-style-type: none"> (1) the report of the ALJ or evidence received at a hearing conducted by the IBTR; (2) any additional evidence taken by the IBTR; and (3) any records that the IBTR considers relevant according to the former IC 6-1.5-5-4(b). 	<ul style="list-style-type: none"> • The IBTR may correct any errors that may have been made, and adjust the assessment or exemption in accordance with the correction. • The IBTR’s final determination must comply with the requirements of the new IC 6-1.1-15-4(j) and IC 6-1.5-5-4(b). • The parties may be required to make certain filings according to the new IC 6-1.1-15-4(l)-(m). • IBTR ALJs are no longer required to submit written reports of findings of fact and conclusions of law to the IBTR (former IC 6-1.5-5-4(a)). • The IBTR may base its final determination on a stipulation between the respondent and the petitioner according to the requirements of new IC 6-1.1-15-4(n). • If the IBTR’s determination is <i>not</i> based on a stipulation between the parties, the determination must: <ul style="list-style-type: none"> ○ include separately stated findings of fact for all aspects of the determination, which must be accompanied by a concise statement of the underlying basic facts of record to support the findings; ○ be based <i>exclusively</i> on the evidence on the record in the proceeding and matters officially noticed in the proceeding; and ○ be based on a preponderance of the evidence (new IC 6-1.5-5-4(c)).
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<p>Petitioning for Judicial Review to the Indiana Tax Court [IC 6-1.1-15-5]</p>	<ul style="list-style-type: none"> • A party must petition for review within the later of (1) 45 days of receiving the IBTR’s final determination, if no rehearing is scheduled; or (2) 30 days of the IBTR’s final determination from a rehearing or the maximum time expires for the IBTR to make a determination. • The party petitioning for judicial review must follow the requirements of the Administrative Orders and Procedures Act (AOPA) under IC 4-21.5-5. • <i>Amicus curiae</i> briefs may be filed according to the requirements under IC 6-1.1-15-5(b). • The Department may intervene in the case. • The county executive may petition for judicial review to the tax court upon request by the county assessor, the elected township assessor, or an affected taxing unit. If an appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal. • If the county executive determines upon a request under this subsection to not appeal to the tax court: <ul style="list-style-type: none"> ○ the county PTABOA, the county assessor, or the township assessor may take an appeal to the tax court using funds from that entity's budget; and ○ the petitioner may not be represented by the attorney general. • If a judicial proceeding is initiated under this subsection and the IBTR has not issued a determination, the tax court shall determine the matter <i>de novo</i>. 	<ul style="list-style-type: none"> • A party must petition for review within the later of: <ul style="list-style-type: none"> (1) 45 days of receiving the IBTR’s final determination, if no rehearing is scheduled; (2) 45 days of the IBTR’s final determination from a rehearing; or (3) the maximum time expires for the IBTR to make a determination. • In order to obtain judicial review, the petitioner no longer must follow the requirements of AOPA. Instead, the much more straight-forward requirements that a party must follow include: <ul style="list-style-type: none"> ○ Filing a petition with the Indiana Tax Court (a simple notice pleading); ○ Serving a copy of the petition on (i) the county assessor, (ii) the attorney general; and (iii) any entity that filed an <i>amicus curiae</i> brief with the IBTR; and ○ Filing a written notice of appeal with the IBTR informing the IBTR of the party's intent to obtain judicial review. • The Department may intervene in the case. • The decision to seek judicial review is solely left to the county assessor. • The PTABOA and/or county executive are not automatically allowed to file <i>amicus curiae</i> briefs. • If a judicial proceeding is initiated under this subsection and the IBTR has not issued a determination, the tax court shall determine the matter <i>de novo</i> (which means that the tax court is not bound by the evidence or issues presented to the IBTR).
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No substantive changes were made to the procedures for petitioning the IBTR for a rehearing, the Indiana Tax Court's authority to remand matters to the Department or county PTABOA, the amount of taxes due when an appeal is pending, and the procedures for making corrections of error. Also, if a requirement or practice related to assessment appeals was not mentioned in this memo, no change was made in recent legislation. Therefore, continue to follow current practices for items not mentioned in this memo.