
STATE OF INDIANA

INDIANA BOARD OF TAX REVIEW

ROBERT B. WENTE, CHAIRMAN
BETSY J. BRAND, COMMISSIONER
TERRY G. DUGA, COMMISSIONER



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1026
INDIANAPOLIS, IN 46204
PHONE (317) 232-3786
FAX (317) 234-5589

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Adam Horst
Director
State Budget Agency
212 State House
Indianapolis, IN 46204-2796

Dear Mr. Horst:

Attached please find the FY 2012-2013 biennial budget proposal for the Indiana Board of Tax Review. The Board's proposal explains the funding needed to support its mission to conduct an impartial review of property tax appeals.

A. AGENCY OVERVIEW

Background

The Indiana Board of Tax Review ("IBTR") and the Department of Local Government Finance ("DLGF") were established January 1, 2002, as the successor agencies of the State Board of Tax Commissioners. The DLGF assumed the assessment and budgeting functions of the former State Board. The IBTR took over responsibility for hearing appeals from local property tax assessment boards of appeal ("PTABOAs") and the appeals of assessment determinations made by the DLGF. These functions had previously been performed by the semi-autonomous Appeals Division of the State Board of Tax Commissioners.

Mission Statement

The Board's overriding mission is to protect the interests of all Indiana property owners by ensuring that property tax appeals are heard promptly and decided fairly. To achieve this purpose, and to maintain public confidence in the integrity and efficiency of the State's property tax appeal process, the Board members and staff will pursue the following goals:

- Resolve property tax appeals in a timely fashion by issuing impartial decisions based upon the law and the weight of the evidence;
- Ensure that the record of the hearing held by the Board is as clear and inclusive as possible because that record constitutes the sole basis of appeals to the Tax Court;

- Issue written findings that clearly articulate the basis for the decisions that are made available to the public;
- Provide informal and alternative dispute resolution options to parties who wish to expedite their tax appeals;
- Establish clear, concise, accurate, and timely communications with taxpayers, their representatives, and the assessing community; and
- Maintain a work force that demonstrates the highest standards of integrity, efficiency, and performance.

The Indiana Board of Tax Review adjudicates assessment challenges with a fair and open mind. Each decision not only affects the taxpayer bringing the appeal, but also has a burden shifting effect upon all taxpayers.

Major Programs

The major programs the Board provides are:

- **Property Tax Appeals from the County Property Tax Assessment Board of Appeals (“PTABOA”) and other assessing officials.** The Board conducts an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; or (3) property tax exemptions, made from a determination by an assessing official or PTABOA.
- **Direct Appeals from DLGF assessments and reviews.** The Board conducts an impartial review of all appeals of final determinations of the DLGF which include public utilities, real and personal property, and claims for refund.

B. ACCOMPLISHMENTS AND CHALLENGES

Accomplishments

Implementation of a Voluntary Resolution Program (“Facilitation”) for property tax disputes that are at the county assessor stage. Drafted and proposed supporting legislation which was adopted and enacted by the General Assembly. Under the Program, the Board provides one of its administrative law judges to facilitate settlement in disputes where the taxpayer has filed an appeal with the county assessor. The taxpayer and county assessor meet for an informal settlement conference aided by an administrative law judge who acts as a neutral third person to help both sides understand the strengths and weaknesses of their cases. Pilot tests of facilitation were extremely successful. Our facilitator attended over 100 conferences in Monroe County. Of those cases, only one did not settle. The program has also been successful in Knox and Grant Counties.

The Board issued 1,648 final determinations during the 2010 fiscal year. The final determinations were for cases involving the assessment of property tax, the granting of property tax exemptions, and the propriety of property tax deductions in appeals from 92 counties and the DLGF.

During the 2009 calendar year, the Indiana Tax Court issued 16 opinions in which it reviewed the merits of a final determination of the Board. The Tax Court summarily affirmed 10 of the Board's final determinations. Five final determinations were reversed. However, of the five reversed, one was based solely upon a non-code statute passed by the General Assembly subsequent to the Board's final determination. In one other, the Supreme Court has granted transfer effectively vacating the Tax Court's opinion. One other final determination was reversed in part, and affirmed in part.

For a number of years, the Board has conducted a successful internship program with the Indiana University School of Law – Indianapolis. In that program, three law students are paired with the Board's Senior Administrative Law Judges for a semester. The students provide the Board with 120 hours of work. The Board does not pay the students, rather they receive two hours of credit with the school. In 2009, the Board expanded the internship to include law students from the IU School of Law in Bloomington.

Implementation of procedural and substantive changes required due to legislation. The Board has developed policy statements to address and clarify issues (such as the party to defend an appeal and the direct appeal to the Board) as they arise.

Management of increased workload through training, education, outreach, and innovation:

- The Board enhanced staff training and developed strategies to improve its ability to process and resolve the increased number of petitions due to annual adjustment of real property which began with the March 1, 2006 assessment date.
- Administrative Law Judges use computers to digitally record appeal hearings. The use of CDs to preserve hearing information has improved the quality of the Board's hearing record.
- The Board has taken every available opportunity to meet with members of the property tax bar and local assessing officials to discuss the obligations everyone faces under the new laws, rules, and assessment standards.
- The Board continues to make most of its decisions available on-line through our website. The Board also provides appeal forms, important updates, and a guide to appeals on its website.

Challenges

The major challenge facing the IBTR is processing, within statutory deadlines¹, and available funding and staff, the number of increased appeals that have been filed with the Board.

¹ The Board shall conduct a hearing not later than nine months after a proper petition is filed. For a reassessment year appeal, the Board shall conduct a hearing not later than one year after a proper petition is filed. The Board shall make a determination not later than 90 days after the hearing. For a reassessment year appeal, the Board shall make a determination not later than 180 days after the hearing.

As of September 13, 2010, the Board has 4,340 appeals before it. This is approximately 1,300 more appeals than were before the Board in August 2008. Of the 4,340 appeals, the Board has conducted hearings on 407 appeals and decisions are pending. The number of appeals received by the Board has been increasing between July 1, 2009 and June 30, 2010, the Board received 2,314 appeals. During that same time period, the Board issued 1,648 determinations.

In addition, a taxpayer may now initiate a proceeding for review before the Board if the PTABOA fails to hold a hearing within 180 days and/or fails to issue a determination within 120 days of its hearing.² The Board has only received a few of these appeals, but expects more as taxpayers become aware of the statute.

The Board is down to 19 employees, one less than at the last biennium. With one less employee and 1,300 more appeals, the Board must make the most of its travel budget while considering statutory deadlines and location of the appeals.

C. OBJECTIVES

The Board's objective is to resolve all property tax appeals within the statutory time frames allotted to it. The Board is taking the following steps to accomplish this goal:

- **Streamlining the hearing process.** The Board continues to look for ways to expedite hearings. The Board also uses stricter standards when evaluating petitioners for defects and failures to state a claim.
- **Voluntary Resolution Program ("Facilitation").** The statute now allows a county assessor to request an employee of the Board to assist in their attempts to voluntarily resolve disputes³. The Board has several employees trained in facilitated settlement techniques and continues to train the remaining employees.
- **Community Outreach.** The Board continues to meet with tax attorneys, assessing officials, and others to provide guidance and instruction on the appeals procedure and continually seeks suggestions for expediting hearings, alternative dispute resolution methods, and ways to discourage unnecessary appeals.
- **Staff Training.** The IBTR staff participates in ongoing training to improve their understanding of market value based systems and appraisal evaluation expertise, refine their mediation and settlement skills, and stay apprised on changes in statute and case law.

D. PERFORMANCE METRICS AND KEY PERFORMANCE INDICATORS

The Board has one performance metric which measures its performance by the % of cases resolved without going to Tax Court. The Board has set a Green Target of 98% and a Yellow Target of 95%. Looking at the results from 2009 and the first two quarters of 2010, the Board

² Ind. Code § 6-1.1-15-1(o).

³ Ind. Code § 6-1.5-3-4.

has met the Green Target five of the six quarters. The one time the Board did not meet the Green Target the result was 97.5%, just short of the Green Target.

In addition, the Board recently began looking at the cases that were appealed to the Tax Court and the Tax Court outcome. During the 2009 calendar year, the Indiana Tax Court affirmed the Board's final determinations in 81% of all cases where substantive merits formed the basis of the Court's final opinion.

The Board also gauges its performance by: 1) the efficacy of its final determinations; and 2) the timeliness of its decisions. Only a handful of the Board's final determinations were not issued within the statutory deadlines. For those few cases that are not timely issued, the Board attempts to ascertain the facts and causes and then uses these examples as further training and reminders.

E. ORGANIZATIONAL CHART

The Board currently has 20 positions on its staffing chart. During 2010, an administrative law judge resigned leaving the Board with 19 full-time employees. An organizational chart is attached as Exhibit A.

F. CLOSING REMARKS

The Board's funding request is conservative and recognizes the fiscal challenges faced by the state. Its staff is relatively small, given the Board's mission and the magnitude of the task at hand.

Thank you for your consideration of this budget request for the 2012-2013 biennium. On behalf of the Indiana Board of Tax Review, we look forward to discussing this request with you at your convenience.

Sincerely,

Robert Wentz, Chairman
Indiana Board of Tax Review

Terry G. Duga, Commissioner
Indiana Board of Tax Review

Betsy J. Brand, Commissioner
Indiana Board of Tax Review

Exhibit A

**Board of Tax Review – Agency #00217
Organization Chart**

