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# STATE OF INDIANA

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INDIANA BOARD OF TAX REVIEW

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September 21, 2012

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

Dear Mr. Horst:

Attached please find the FY 2014-2015 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 assumed 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 for 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; (3) property tax exemptions; and (4) property tax credits, 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

The Board implemented a Voluntary Resolution Program (“Facilitation”) for property tax disputes that are at the county assessor stage. The Board also 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 a 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 facilitator to help both sides understand the strengths and weaknesses of their cases. Pilot tests of facilitation have proven successful. The facilitation program began in 2010.

For calendar year 2010, the Board facilitated 209 conferences with 80% of the disputes being resolved. For the 2011 calendar year, the Board facilitated 412 conferences with 69% of the disputes being resolved. So far for 2012, the Board has facilitated 69 conferences, and 75% of the disputes have been resolved. A total of eight counties have participated in the facilitation program. The Board believes the lack of participation by counties in 2012 is due to the counties focusing on the statewide general reassessment duties.

The Board issued 2,247 final determinations during the 2012 fiscal year. This is the most final determinations issued in the Board's history with the exception of the Lake County Special Project.

During the 2011 calendar year, the Indiana Tax Court issued two opinions in which it reviewed the merits of a final determination of the Board. The Tax Court summarily affirmed both of the Board's final determinations. So far in 2012, the Tax Court has issued one opinion in which it reviewed the merits of a final determination of the Board. The Tax Court summarily affirmed the Board's final determination.

For a number of years, the Board has conducted a successful internship program with the Indiana University School of Law – Indianapolis and Bloomington. In that program, 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; they instead receive two hours of credit with the school.

The Board implemented procedural and substantive changes required due to legislation. The Board has developed policy statements to address and clarify issues (such as the party assigned the burden 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. The Board is preparing for the increased number of petitions expected with the 2012 reassessment.
- 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 publish most of its decisions on-line through its 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 deadlines<sup>1</sup>, available funding, and staff) the number of increased appeals that have been filed with the Board.

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<sup>1</sup> 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 July 1, 2012, the Board has 5,811 appeals before it. This is approximately 1,400 more appeals than were before the Board in September 2010. Of the 5,811 appeals, the Board has conducted hearings in 634 of them and decisions are pending. The number of appeals received by the Board has disproportionately increased between July 1, 2011, and June 30, 2012. During this period, the Board received 2,502 appeals. During that same time period, the Board issued 2,247 determinations.

The number of new appeals filed with the Board is expected to increase even more due to the statewide general reassessment. The projected increase in appeals before the Board necessitates the need for a new database. The current database is outdated and unable to handle the expected increase in appeals. Furthermore, the current database does not do an adequate job of providing a case history for each appeal, or tracking the Board's deadlines.

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

With the addition of 1,400 more appeals, the Board must maximize 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 explore ways to expedite hearings. The Board applies stricter standards when evaluating petitions 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 disputes<sup>3</sup>. 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.

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<sup>2</sup> Ind. Code § 6-1.1-15-1(o).

<sup>3</sup> Ind. Code § 6-1.5-3-4.

#### **D. PERFORMANCE METRICS AND KEY PERFORMANCE INDICATORS**

The Board has one performance metric which measures its performance by the percent 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 2011 and the first two quarters of 2012, the Board has met the green target four of the six quarters. The two times the Board did not meet the green target, the result was 96.5% and 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 2011 calendar year, the Indiana Tax Court affirmed the Board's final determinations in 100% 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. As of August 2012, the Board is fully staffed. An organizational chart is attached as Exhibit A.

#### **F. CLOSING REMARKS**

As set forth above, the statewide reassessment will result in even more property tax appeals to the Board. Existing software and databases will not be able to accommodate this influx. Neither will it provide case tracking ability that is necessary. The Board's staff is relatively small, given the Board's mission and the magnitude of the task at hand. The Board's funding request is conservative and recognizes the fiscal challenges faced by the state.

Thank you for your consideration of this budget request for the 2014-2015 biennium. On behalf of the Indiana Board of Tax Review, we look forward to discussing this request with you at your convenience.

Sincerely,

Robert Wente, 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**

