

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All County Assessors, Auditors, and Treasurers

FROM: Micah G. Vincent, Commissioner *MGV*

RE: SEA 152: Burden of Proof in Certain Appeals; Interest on Refunds and Payments

DATE: June 6, 2013

On May 11, 2013, Governor Mike Pence signed into law Senate Enrolled Act 152 ("SEA 152"). Section 1 adds a statute governing the burden of proof in certain property assessment appeals. Sections 2 and 3 amend statutes governing the computation of interest on refunds and payments, respectively and Section 4 amends the statute on tax refunds or credits. These changes are effective July 1, 2013. Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

Section 1 adds IC 6-1.1-4-4.3, which applies to real property for which the gross assessed value of the real property was reduced by the property tax assessment board of appeals ("PTABOA") in an appeal conducted under IC 6-1.1-15. This statute applies to assessment dates after 2013. However, it does not apply for an assessment date if the real property was valued using the income capitalization approach in the appeal. If the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal as described above is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.

For example, Mr. Smith appeals the \$100,000 2013 assessed value of his house. The PTABOA reduces his assessment to \$75,000. If the assessed value for the March 1, 2014 assessment date is changed to \$125,000, the assessing official would have the burden of proving the assessment is correct (the taxpayer must still file an appeal). Please note that this is applicable for assessment dates after 2013 (i.e. March 1, 2014) and it does not apply if the income capitalization approach to value was used in the appeal.

Section 2 amends IC 6-1.1-26-5 so that interest on a refund claimed under IC 6-1.1-26-1 must be computed using the rate in effect for each particular year covered by the refund (the interest rate for excess tax payments is established by the commissioner of the department of state revenue under IC 6-8.1-10-1).

Likewise, section 3 amends IC 6-1.1-37-9 so that the interest a taxpayer must pay on the taxes

due when a final determination of an appeal or judicial proceeding is made must be computed using the rate in effect for each particular year in which the interest accrued (here, too, the interest rate for excess tax payments is established by the commissioner of the department of state revenue under IC 6-8.1-10-1).

Section 4 amends IC 6-1.1-37-11 so that if a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the taxpayer must also be paid, or credited with, interest on the excess taxes that the taxpayer paid at the rate established for excess tax payments by the commissioner of the department of state revenue under IC 6-8.1-10-1 (previously the rate was set at 4%). For purposes of this statute, and except as provided in IC 6-1.1-37-11(c), the interest must be computed:

- (1) from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit; and
- (2) using the rate in effect under IC 6-8.1-10-1 for each particular year covered by the refund or credit.

If you have any questions, please contact Assessment Division Director Barry Wood at (317) 232-3762 or bwood@dlgf.in.gov.