

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: All Political Subdivisions
FROM: Micah G. Vincent, Commissioner *MGV*
RE: Implementation of Credit Determinations for Common Areas
DATE: June 14, 2013

On May 11, 2013, Governor Mike Pence signed into law House Enrolled Act 1545 ("HEA 1545"). Section 21 adds IC 6-1.1-20.6-1.2 to define the term "common areas" for purposes of the circuit breaker credits. Section 22 amends IC 6-1.1-20.6-4 so that for purposes of the circuit breaker credits, residential property now also includes any land that is a common area, as the term is defined by IC 6-1.1-20.6-1.2. This legislation is effective January 1, 2014.

Pursuant to this statute, for purposes of the circuit breaker credits, "common areas" means any of the following:

- (1) Residential property improvements on real property on which a building that includes two or more dwelling units, a mobile home, or a manufactured home is located, including all roads, swimming pools, tennis courts, basketball courts, playgrounds, carports, garages, other parking areas, gazebos, decks, and patios.
- (2) The land and all appurtenances to the land used in connection with a building or structure described in subdivision (1), including land that is outside the footprint of the building, mobile home, manufactured home, or improvement.

The Department notes the ambiguity of the "application" language of the statute, but advises counties to apply the statute for the 2013 pay 2014 tax cycle. Indiana Code 6-1.1-20.6-1.2, as amended by HEA 1545, "applies to credit determinations after 2013." Per IC 6-1.1-20.6-7.5, the "amount of the credit is the amount by which the person's property tax liability attributable to the person's" property exceeds 1%, 2%, or 3%, as applicable. This amount cannot be "determined" until tax bills are prepared, meaning the year in which the taxes are first due and payable. Because the amendment to IC 6-1.1-20.6-1.2 takes effect January 1, 2014, the statute, viewed in this way, would affect credit determinations made in 2014 for taxes incurred in 2013 (meaning the 2013 Pay 2014 cycle). Moreover, the May 4, 2013 Fiscal Impact Statement indicates the intent for a pay 2014 application.

It could be argued that the "determination" in Section 22 refers to the determination of whether a property should receive the 1%, 2%, or 3% tax cap. This determination is associated with the

January 15 or March 1 assessment dates and would, therefore, lead to the applicability of Section 22 for pay 2015. While the Department recognizes the cogency of this argument, the Department, nevertheless, advises application to pay 2014, which it believes is the intent of the General Assembly.

The Department will consider the application of the 2% tax cap to residential properties, including common areas, for pay 2014 as compliant with Indiana law for its data review.

Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law. Questions may be directed to Assessment Division Director Barry Wood at 317-232-3762 or bwood@dlgf.in.gov.