

Key Ideas

Chapter 7: The Excessive Levy Appeal Process



In this section, we will discuss the following:

- *How to determine if you are eligible for an increase in levy.*
- *When to consider application for appeal.*
- *The appeal application process.*
- *Type of appeals.*
- *The DLGF final determination.*

EXCESSIVE LEVY APPEAL PROCESS

The following section describes the excessive levy appeal process for Clerk-Treasurers. Before beginning, it is important to have a general understanding of what an excessive levy appeal is and how the appeal ties into the budget process. An excessive levy appeal is a request for consideration of an increase in levy for a city/town that is experiencing increased growth or increased operating expenses. The increase requested is above the normal maximum levy limitation in place by statute. The following outlines the excessive levy appeal process, time frame for consideration of an appeal, application to be filed and current appeals available.

Process

Any city/town that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute may on or before **October 19** of the year preceding the ensuing calendar year appeal to the DLGF for an increase in levy.



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A city/town is required to file a written petition with the DLGF stating that it cannot carry out the functions required by law and must supply a detailed statement outlining the need for an appeal. The City/Town will submit the appeal petition to the Administrative Officer of the DLGF for consideration of the appeal.

The city or town may not be required to appear before the DLGF for consideration of the appeal. The DLGF reviews the petition and the financial information and makes a recommendation to the Commissioner. The Commissioner of the DLGF will make the final decision and an order will be issued to reflect the final determination.

Cities/towns that fail to submit the required information will be denied. The city/town may not submit a new application until the following taxing year.

Time-frame

A city/town must consider application for an appeal during budget preparation. Any excessive levy appeals become part of the city/town's budget estimates for the ensuing calendar year. When the city/town prepares budget estimates for the ensuing calendar year, the amount of the excessive levy appeal to be considered by the City/Town Council and by the DLGF must be included in the city/town's estimated levy on line 16 and budget estimate reflected on line 1 of city/town Form 4B. This levy figure (line 16 of Form 4-B) must be inflated above your current maximum levy limitation to support consideration of an appeal. The city/town must also advertise the appeal amount in the

appropriate column of Form 3 in order to be considered for the appeal. If a City/Town Council fails to adopt the excessive levy appeal requested, the DLGF may deny the request. It is the City/Town's responsibility to advertise high enough for consideration of an appeal.



A city/town must consider application for an appeal during budget preparation.

Application

Each year, the Budget Division of the DLGF mails to each city/town an “excessive levy appeal application” that identifies the type of appeals available to all taxing units for the ensuing calendar year. The appeal petition must be submitted directly to the DLGF's Budget Division, **not** with the budget paperwork.

Top Section: The clerk-treasurer must complete this section, which provides the Budget Division with City/Town Unit information. The blanks to be completed include the clerk/treasurer's name, address, city/state/zip, telephone and county

Middle Section: The clerk-treasurer checks the types of excessive levy appeals under consideration. A city/town must select the applicable section(s) on the form. The DLGF must be able to identify which appeal the city/town is applying for before an appeal will be considered.

Second Page: This page provides a list of information that should accompany the excessive levy appeal request.

The fiscal body must specify why an appeal is necessary. This should not consist of a general statement that expenses have increased. The fiscal body should specify which costs have increased or what services cannot be provided to taxpayers. This section should support the entire need for the appeal. Additional pages can be attached if the space provided is not ample.



On page 1, the county must specify what type(s) of excessive levy appeals are being requested and why the appeal is necessary.



On page 2, a list of the information that must accompany the excessive levy appeal request is provided.

Types of Excessive Levy Appeals

- 1) **Annexation, Consolidation, Extensions of Services: (IC 6-1.1-18.5-13a(1))** This appeal allows a unit to increase the maximum levy to pay additional costs for providing services to newly annexed areas or the consolidations of municipal services with another municipality.
- 2) **Three-year growth factor: (IC 6-1.1-18.5-13a(3))** A unit may qualify for this appeal if its average assessed valuation growth quotient (AVGQ) over the last three years exceeds the statewide average AVGQ by at least two percent (2%). The following example illustrates the appeal.

Step 1: Determine a unit's certified assessed valuation for the last four years.

Step 2: Calculate the assessed valuation growth for each of the last three years.

Step 3: Calculate the average assessed value growth quotient by taking the sum of the results of Step 2 and dividing by three (3).

Step 4: Determine the statewide certified assessed valuation for the last four years.

Step 5: Calculate the assessed value growth for each of the last three years.

Step 6: Calculate the average statewide-assessed value growth quotient by taking the sum of the results of Step 5 and dividing by three (3).

Step 7: Divide the Step Three amount by the Step Five amount.

Note: The Step Seven amount must be equal to or greater than 1.02 to qualify for the appeal.

The DLGF makes a determination on whether or not the unit meets the requirements for the appeal.

- 3) **Correction of advertising errors, mathematical errors or errors in data.** (IC 6-1.1-18.5-14) The unit simply states what type of error(s) occurred and the amount of the error that should be considered by the DLGF. The DLGF will review the information presented and consider the appeal. The appeal form should provide documentation that identifies the type and amount of errors made.
- 4) **Shortfall due to erroneous assessed valuation:** This appeal is applicable to all taxing units that experience a shortfall of property taxes due to erroneous assessed value or refunds due to successful assessment appeals. The unit must state the specific cause of the shortfall and provide the following information: Form 22's (Certificate of Tax Distribution) for all funds within the maximum levy, County Form 127CER (Register of Certificates of Error), and County Form 17TC (Certificate of Tax Refund Claims). Shortfall appeals without the appropriate documentation may be subject to disapproval and no shortfalls will be considered for delinquent tax payments. Anticipated shortfalls based on current year distributions will not be considered

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unless the unit can prove extreme financial hardship. This appeal is temporary and results in an increase in levy for one year only.

- 5) **Emergency Levy Appeal:** (IC 6-1.1-18.5-13) A unit may qualify for this appeal if the civil taxing unit cannot carry out its governmental functions for an ensuing calendar year under the levy limitations due to a natural disaster, an accident, or another unanticipated emergency. The unit must describe the event which caused the emergency. This is temporary appeal, which means, if granted, the increased levy is approved for one year only.

Documentation Required for All Appeal Types

All excessive levy appeal requests must include **two (2) copies** of the following information required for the type of appeal under consideration:

- Report of appealing unit.
- Ensuing year maximum levy sheet for funds under appeal (if available).
- Ensuing year budget proof of publication.
- Estimate of miscellaneous revenue (Budget Form 2) for all funds.
- “16 Line” Financial Statement (Budget Form 4B) for all funds.
- Resolution from fiscal body approving the excessive levy appeal.

Determination by the DLGF

The DLGF reviews the appeal information and ensures proper procedures have been followed. The DLGF makes a determination approving, reducing, or disallowing an appeal request. The DLGF will make a decision based on the information presented and the Indiana Code. An order will be issued reflecting the final decision of the DLGF.

Additional Levy

If the DLGF approves an excessive levy appeal for your city/town, the amount will be “worked” in prior to certification of budgets, tax rates and tax levies for the city/town.

Summary

Chapter 7: The Excessive Levy Appeal Process



In this section, we have discussed the following:

- *Any city/town that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute may, on or before October 19 of the year preceding the ensuing calendar year, appeal to the DLGF for an increase in levy.*
- *A city/town must consider application for an appeal during budget preparation.*
- *The city/town must specify why an appeal is necessary.*
- *The city/town must indicate what type of appeal (statutory relief) is being requested.*
- *The DLGF will make a determination approving, reducing, or disapproving an appeal request.*
- *Excessive levy appeals may be a temporary or permanent increase to a unit's maximum levy limitation.*