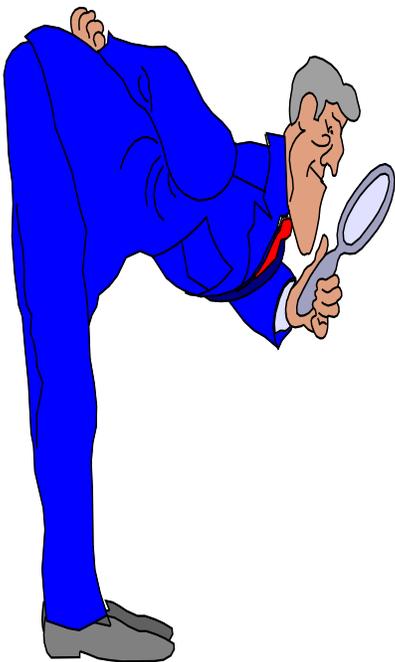


Key Ideas

Chapter 8: 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 Department final determination.*

EXCESSIVE LEVY APPEAL PROCESS

The following section describes the excessive levy appeal process for township trustees. 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 township 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 (IC 6-1.1-18.5-12)

Any township 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 Department for an increase in levy.



Any township 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 Department an increase in levy.

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

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

Townships that fail to submit the required information will be denied. The township may not submit a new application until the next following taxing year.

Time-frame

A township must consider application for an appeal during budget preparation. Any excessive levy appeals become part of the township's budget estimates for the ensuing calendar year. When the township prepares budget estimates for the ensuing

calendar year, the amount of the excessive levy appeal to be considered by the Township Board and by the Department must be included in the township's estimated levy on line 16 and budget estimate reflected on line 1 of Township Form 4B. This levy figure (line 16 of Form 4B) must be inflated above your current maximum levy limitation to support consideration of an appeal. The Township must also advertise the appeal amount in the appropriate column of Form 3 in order to be considered for the appeal. If a Township Board fails to adopt the excessive levy appeal requested, the Department may deny the request. It is the township trustee's responsibility to advertise high enough for consideration of an appeal.



A township must consider application for an appeal during budget preparation.

Application

Each year, the Budget Division of the Department revises the excessive levy appeal application that identifies the type of appeals available to a township for the ensuing calendar year. The appeal petition must be submitted directly to the Department's Budget Division and not filed at the Auditor's office along with the Budget paperwork.

Top Section: The trustee must complete this section, which provides the Budget Division with township unit information. The blanks to be completed include the trustee's name, address, city/state/zip, telephone and county.

Middle Section: The trustee checks the types of excessive levy appeals under consideration. A trustee must select the applicable section(s) on the form. The Department must be able to identify which appeal(s) the trustee 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.

Types of Excessive Levy Appeals

- 1) Annexation, Consolidation, or Extension of Services:** According to 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 Department makes a determination on whether or not the unit meets the requirements for the appeal.

- 3) **Sec. 14 (a) Correction of advertising errors, mathematical errors or errors in data.** The unit simply states what type of error(s) occurred and the amount of the error that should be considered by the Department. The Department 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: 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 appropriate documentation may be subject to disapproval and no shortfalls will be considered for delinquent tax payments or circuit breaker losses. Anticipated shortfalls based on current year distributions will not be

considered 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 a 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 in addition to the type of information required for the type of appeal under consideration:

- Report of Appealing Unit
- Ensuing year maximum levy sheet for funds under appeal
- 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 Department

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

Additional Levy

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

Summary

Chapter 8: The Excessive Levy Appeal Process



In this section, we have discussed the following:

- *Any township 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 Department for an increase in levy.*
- *A township must consider application for an appeal during budget preparation. The appeal must be properly advertised and adopted as part of the township budget process.*
- *The township must specify why an appeal is necessary.*
- *The township must indicate what type of appeal (statutory relief) is being requested.*
- *The Department 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.*