

SENATE BILL No. 457

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-15; IC 6-1.1-17.

Synopsis: Property tax assessment appeals. Requires the division of appeals of the state board of tax commissioners to provide notice of a hearing on a petition for review to the affected taxing units. Requires a county executive to appeal to the tax court upon the request of a majority of the affected taxing units if a final determination of the state board would result in a claim for a refund that exceeds the lesser of: (1) \$800,000; or (2) an amount equal to ten percent (10%) of the aggregate tax levies of all taxing units in the county for that year. Provides for the repayment of refunds that exceed \$100,000 in not more than five (5)
(Continued next page)

Effective: January 1, 1999.

Lewis

January 14, 1998, read first time and referred to Committee on Finance.

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Digest Continued

annual installments. Requires the county auditor to certify the amount of contested valuation as of July 15 to the fiscal officer of each political subdivision in the county. Requires a political subdivision to exclude the amount of contested assessed valuation when calculating its proposed tax rate and tax levy for the ensuing budget year.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 457



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-15-4, AS AMENDED BY P.L.6-1997,
 2 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JANUARY 1, 1999]: Sec. 4. (a) After receiving a petition for review
 4 which is filed under section 3 of this chapter, the division of appeals of
 5 the state board of tax commissioners shall conduct a hearing at its
 6 earliest opportunity. In addition, the division of appeals of the state
 7 board may assess the property in question, correcting any errors which
 8 may have been made. The division of appeals of the state board shall
 9 give notice of the date fixed for the hearing, by mail, to the taxpayer
 10 and to the appropriate township assessor, county assessor, ~~and~~ county
 11 auditor, **and the affected taxing units**. The division of appeals of the
 12 state board shall give these notices at least ten (10) days before the day
 13 fixed for the hearing.

14 (b) If a petition for review does not comply with the state board of
 15 tax commissioners' instructions for completing the form prescribed



1 under section 3 of this chapter, the division of appeals of the state
 2 board of tax commissioners shall return the petition to the petitioner
 3 and include a notice describing the defect in the petition. The petitioner
 4 then has thirty (30) days from the date on the notice to cure the defect
 5 and file a corrected petition. The division of appeals of the state board
 6 of tax commissioners shall deny a corrected petition for review if it
 7 does not substantially comply with the state board of tax
 8 commissioners' instructions for completing the form prescribed under
 9 section 3 of this chapter.

10 (c) The state board of tax commissioners shall prescribe a form for
 11 use in processing petitions for review of actions by the county property
 12 tax assessment board of appeals. The state board shall issue
 13 instructions for completion of the form. The form must require the
 14 division of appeals of the state board, to indicate agreement or
 15 disagreement with each item that is:

- 16 (1) indicated on the petition submitted under section 1(e) of this
- 17 chapter;
- 18 (2) included in the township assessor's response under section
- 19 1(g) of this chapter; and
- 20 (3) included in the county property tax assessment board of
- 21 appeals' findings, record, and determination under section 2.1(d)
- 22 of this chapter.

23 The form must also require the division of appeals of the state board to
 24 indicate the issues in dispute and its reasons in support of its resolution
 25 of those issues.

26 (d) After the hearing the division of appeals of the state board shall
 27 give the petitioner, the township assessor, the county assessor, ~~and~~ the
 28 county auditor, **and the affected taxing units:**

- 29 (1) notice, by mail, of its final determination;
- 30 (2) a copy of the form completed under subsection (c); and
- 31 (3) notice of the procedures they must follow in order to obtain
- 32 court review under section 5 of this chapter.

33 (e) The division of appeals of the state board of tax commissioners
 34 shall conduct a hearing within six (6) months after a petition in proper
 35 form is filed with the division, excluding any time due to a delay
 36 reasonably caused by the petitioner. The division of appeals shall make
 37 a determination within the later of forty-five (45) days after the hearing
 38 or the date set in an extension order issued by the chairman of the state
 39 board of tax commissioners. However, the state board of tax
 40 commissioners may not extend the final determination date by more
 41 than one hundred eighty (180) days. Except as provided in subsection
 42 ~~(g):~~ **(f):**



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1 (1) the failure of the division of appeals to make a determination
 2 within the time allowed by this subsection shall be treated as a
 3 final determination of the state board of tax commissioners to
 4 deny the petition; and

5 (2) a final decision of the division of appeals is a final
 6 determination of the state board of tax commissioners.

7 ~~(g)~~ (f) A final determination of the division of appeals is not a final
 8 determination of the state board of tax commissioners if the state board
 9 of tax commissioners:

10 (1) gives notice to the parties that the state board of tax
 11 commissioners will review the determination of the division of
 12 appeals within fifteen (15) days after the division of appeals gives
 13 notice of the determination to the parties or the maximum
 14 allowable time for the issuance of a determination under
 15 subsection ~~(f)~~ (e) expires; or

16 (2) determines to rehear the determination under section 5 of this
 17 chapter.

18 The state board of tax commissioners shall conduct a review under
 19 subdivision (1) in the same manner as a rehearing under section 5 of
 20 this chapter.

21 SECTION 2. IC 6-1.1-15-5, AS AMENDED BY P.L.6-1997,
 22 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JANUARY 1, 1999]: Sec. 5. (a) Within fifteen (15) days after the
 24 division of appeals of the state board of tax commissioners gives notice
 25 of its final determination under section 4 of this chapter to the party or
 26 the maximum allowable time for the issuance of a determination by the
 27 division of appeals under section 4 of this chapter expires, a party to
 28 the proceeding may request a rehearing before the board. The board
 29 may conduct a rehearing and affirm or modify its final determination,
 30 giving the same notices after the rehearing as are required by section
 31 4 of this chapter. The state board of tax commissioners has thirty (30)
 32 days after receiving a petition for a rehearing to determine whether to
 33 grant a rehearing. Failure to grant a rehearing within thirty (30) days
 34 after receiving the petition shall be treated as a final determination to
 35 deny the petition. A petition for a rehearing does not toll the time in
 36 which to file a petition for judicial review unless the petition for
 37 rehearing is granted. If the state board of tax commissioners determines
 38 to rehear a final determination of the division of appeals, the state
 39 board of tax commissioners:

40 (1) may conduct the additional hearings that the state board of tax
 41 commissioners determines necessary or review the written record
 42 of the division of appeals without additional hearings; and

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1 (2) shall issue a final determination within ninety (90) days after
 2 notifying the parties that the state board of tax commissioners will
 3 rehear the determination.

4 Failure of the state board of tax commissioners to make a determination
 5 within the time allowed under subdivision (2) shall be treated as a final
 6 determination affirming the decision of the division of appeals.

7 (b) A person may appeal the final determination of the division of
 8 appeals or the state board of tax commissioners regarding the
 9 assessment of that person's tangible property. The appeal shall be taken
 10 to the tax court. Appeals may be consolidated at the request of the
 11 appellants if it can be done in the interest of justice.

12 (c) If a person desires to initiate an appeal of the state board of tax
 13 commissioners' final determination, the person shall:

14 (1) file a written notice with the state board of tax commissioners
 15 informing the board of his intention to appeal;

16 (2) file a complaint in the tax court; and

17 (3) serve the attorney general and the county assessor with a copy
 18 of the complaint.

19 (d) To initiate an appeal under this section, a person must take the
 20 action required by subsection (c) within:

21 (1) forty-five (45) days after the state board of tax commissioners
 22 gives the person notice of its final determination under
 23 IC 6-1.1-14-11 unless a rehearing is conducted under subsection
 24 (a);

25 (2) thirty (30) days after the board gives the person notice under
 26 subsection (a) of its final determination, if a rehearing is
 27 conducted under subsection (a) or the maximum time elapses for
 28 the state board of tax commissioners to make a determination
 29 under this section; or

30 (3) forty-five (45) days after the division of appeals gives notice
 31 of a final determination under section 4 of this chapter or the
 32 division fails to make a determination within the maximum time
 33 allowed under section 4 of this chapter, if a rehearing is not
 34 granted under this section.

35 (e) The failure of the state board of tax commissioners to conduct a
 36 hearing within the time period prescribed in section 4(b) of this chapter
 37 does not constitute notice to the person of a board determination.

38 (f) In a case in which the final determination of the state board of
 39 tax commissioners would result in a claim by a taxpayer with respect
 40 to a particular year for a refund that exceeds:

41 (1) eight hundred thousand dollars (\$800,000); or

42 (2) an amount equal to ten percent (10%) of the aggregate tax

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1 levies of all taxing units in the county for that year;
 2 whichever is less, the county executive ~~may~~ **shall** take an appeal to the
 3 tax court in the manner prescribed in this section ~~but only~~ upon request
 4 by ~~the county assessor: a majority of the affected taxing units.~~

5 SECTION 3. IC 6-1.1-15-9 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 9. (a) If tangible
 7 property is reassessed by the state board of tax commissioners under
 8 section 8 of this chapter, the owner of the property has a right to appeal
 9 the board's final determination of the reassessment. In a case meeting
 10 the requirements of section 5(f)(1) or 5(f)(2) of this chapter, the county
 11 executive ~~also has a right to~~ **shall** appeal the board's final determination
 12 of the reassessment ~~but only~~ upon request by ~~the county assessor: a~~
 13 **majority of the affected taxing units.**

14 (b) An appeal under this section must be initiated in the manner
 15 prescribed in section 5 of this chapter.

16 SECTION 4. IC 6-1.1-15-11 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 11. (a) If a review
 18 or appeal authorized under this chapter results in a reduction of the
 19 amount of an assessment or if the state board of tax commissioners on
 20 its own motion reduces an assessment, the taxpayer is entitled to a
 21 credit in the amount of any overpayment of tax on the next successive
 22 tax installment, if any, due in that year. If, after the credit is given, a
 23 further amount is due the taxpayer, he may file a claim for the amount
 24 due. If the claim is allowed by the board of county commissioners, the
 25 county auditor shall, without an appropriation being required, pay the
 26 amount due the taxpayer. **However, if the amount due the taxpayer**
 27 **exceeds one hundred thousand dollars (\$100,000), the county**
 28 **auditor may pay the amount due in not more than five (5) annual**
 29 **installments.** The county auditor shall charge the amount refunded to
 30 the taxpayer against the accounts of the various taxing units to which
 31 the overpayment has been paid.

32 (b) **If the county auditor pays the amount due the taxpayer in**
 33 **annual installments under subsection (a), the taxpayer is entitled**
 34 **to receive with each installment the interest accrued upon the total**
 35 **amount due the taxpayer at six percent (6%) per year.**

36 (c) **Notwithstanding subsection (a), the county auditor, the**
 37 **taxing units to which the overpayment has been paid, and the**
 38 **taxpayer may agree to a mutually satisfactory payment schedule.**

39 SECTION 5. IC 6-1.1-17-1, AS AMENDED BY P.L.50-1996,
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JANUARY 1, 1999]: Sec. 1. (a) On or before August 1 of each year,
 42 the county auditor shall send a certified statement, under the seal of the



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1 board of county commissioners, to the fiscal officer of each political
 2 subdivision of the county and the state board of tax commissioners. The
 3 statement shall contain:

4 (1) information concerning the assessed valuation in the political
 5 subdivision for the next calendar year;

6 (2) an estimate of the taxes to be distributed to the political
 7 subdivision during the last six (6) months of the current calendar
 8 year;

9 (3) the current assessed valuation as shown on the abstract of
 10 charges;

11 **(4) the amount of assessed valuation contested in each petition**
 12 **for review to any board or an appeal to the tax court as of**
 13 **July 15;**

14 ~~(4)~~ **(5)** the average growth in assessed valuation in the political
 15 subdivision over the preceding three (3) budget years, excluding
 16 years in which a general reassessment occurs, determined
 17 according to procedures established by the state board of tax
 18 commissioners; and

19 ~~(5)~~ **(6)** any other information at the disposal of the county auditor
 20 that might affect the assessed value used in the budget adoption
 21 process.

22 (b) The estimate of taxes to be distributed shall be based on:

23 (1) the abstract of taxes levied and collectible for the current
 24 calendar year, less any taxes previously distributed for the
 25 calendar year; and

26 (2) any other information at the disposal of the county auditor
 27 which might affect the estimate.

28 (c) The fiscal officer of each political subdivision shall present the
 29 county auditor's statement to the proper officers of the political
 30 subdivision.

31 SECTION 6. IC 6-1.1-17-2.5, IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JANUARY 1, 1999]: **Sec. 2.5. The proper officers of**
 34 **a political subdivision shall exclude the amount of assessed**
 35 **valuation contested under IC 6-1.1-15 as certified by the county**
 36 **auditor under IC 6-1.1-17-1 when formulating the political**
 37 **subdivision's estimated budget and its proposed tax rate and tax**
 38 **levy for the ensuing budget year.**

39 SECTION 7. [EFFECTIVE JANUARY 1, 1999] (a) IC 6-1.1-15-4,
 40 IC 6-1.1-15-5, IC 6-1.1-15-9, IC 6-1.1-15-11, and IC 6-1.1-17-1, all
 41 as amended by this act, apply to property taxes first due and
 42 payable after December 31, 1998.



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1 **(b) IC 6-1.1-17-2.5, as added by this act, applies to property**
2 **taxes first due and payable after December 31, 1998.**

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