

Economic Impact Statement

LSA Document #06-571

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Indiana Code § 4-22-2.1-5 requires an agency to submit a statement concerning the economic impact of any proposed rule on small businesses to the Indiana Economic Development Corporation (IEDC) and publish it in the Indiana Register. The proposed rule clarifies and supplements the Indiana Board of Tax Review's (Board) existing procedural rules and implements the requirements of Senate Enrolled Act 287, effective July 1, 2007. The analysis of the rule by the Board found the total saving to small businesses to be \$4,875 per year.

Ind. Code § 4-22-2.1-5(a)(1): Estimated Number of Small Businesses Affected - The businesses directly affected by the Board's procedural rules would be those businesses that choose to appeal the property tax assessment on their real or personal property. One hundred nineteen petitioners filed 328 property tax appeals for property classified as commercial or industrial with the Board in 2006. In addition, 14 petitioners filed 93 personal property tax appeals with the Board in 2006. Because the Board does not require financial information for its petitioners, the exact number of businesses that qualify as small businesses is unknown. Further, some of the personal property tax appeals may be residential in nature. In an effort to be conservative in its economic impact analysis, the Board will assume that all commercial, industrial, and personal property appeals were filed by small businesses. The Board notes, however, that the average number of appeals filed in a year may vary based on whether the tax year is a general reassessment year or whether trending occurred in the tax year.¹

Ind. Code § 4-22-2.1-5(a)(2): Estimated Average Reporting, Record Keeping, and Administrative Costs – The proposed rule imposes no reporting or record keeping costs on any business.

Ind. Code § 4-22-2.1-5(a)(3): Estimated Annual Fiscal Impact – The proposed rule imposes a filing requirement on petitioners represented by attorneys that are not licensed to practice in Indiana. In 2006, 24 petitions were filed in Lake County for commercial, industrial, or personal property by three petitioners. The Board estimates that 50% of Lake County petitioners and 5% of petitioners from the rest of the state would retain an out-of-state practitioner to represent them at a Board proceeding. The Board further estimates that drafting and filing a notice for the Board would require one-half hour to prepare and serve. Finally the Board uses \$200 per hour as an average attorney fee to estimate the cost of this filing. Thus, the Board estimates that eight petitioners would hire a foreign attorney that would be required to prepare and file a notice at a cost of \$100 per filing for a total cost of \$800.

The proposed rule also removes the provision that the Board may pay for an arbitrator if the parties to an appeal agree to arbitration. Because no parties chose to arbitrate their appeals since the current rules were promulgated in 2003 and 2004, the Board estimates that this change imposes no new costs. Similarly, the rule designates the county as the responding party in all appeals. This is a change from the existing rules where the township, county, or county property tax assessment board of appeals may be the responding party depending on which entity prepared the original assessment. The Board estimates, however, that this change has no fiscal impact on small businesses. It merely alters who is served as the responding party.

In addition, the proposed rule extends the date for filing tax appeal petitions and requires that the petition be filed with the Board's central offices in Indianapolis rather than with the county assessor. While the extended filing date may represent a cost savings to small businesses in the form of less overtime or perhaps less work that must be contracted out, the Board cannot estimate such a savings. Further, the rule may impose offsetting costs on an entity by requiring mailing a petition to Indianapolis rather than hand delivering the documents to a local assessor. If the Board were to assume that all petitioners hand delivered their petitions to the township under the present rules and that all small business petitioners would mail their petitions under the proposed rule, the Board estimates the cost to small businesses to be \$310.²

Finally, the proposed rule saves petitioners with multiple, related parcels the cost of preparing and filing multiple petitions. In 2006, 119 petitioners filed a total of 328 petitions to appeal an assessment on commercial or industrial property. Fourteen petitioners filed 93 personal property tax appeals that year. Thus, in 2006, the average petitioner appealed 3.16 parcels of commercial/industrial or personal property. The Board, therefore, estimates three parcels for each petitioner. Under the existing rule, a petition must be filed for each individual parcel. Under the proposed rule, a petitioner may file a single petition to appeal all three parcels. Because some petitions are prepared by the petitioner, some are prepared by attorneys, and some are prepared by tax representatives, the Board assumes an average labor cost of \$30 per hour. The Board estimates that a petition

requires 45 minutes to prepare and file. Thus filing a single petition for three parcels would save businesses \$45 each for a total savings of \$5,985.

Ind. Code § 4-22-2.1-5(a)(4): Justification of Requirements – The savings to businesses and the clarity the proposed rule brings to the Board's appeal procedures outweigh and justify any costs that this rule might impose.

Ind. Code § 4-22-2.1-5(a)(5): Regulatory Flexibility Analysis – The proposed rule clarifies and supplements the Board's existing procedural rules. It does not substantially change the Board's procedures. Nor does it impose substantial costs on any interested party. The alternative would be for the Board to continue with its existing procedural rules. The passage of SEA 287, however, requires many of these changes. Thus, to the extent the amendments to the Board's procedural rules are required by SEA 287, the Board must amend its rules. Further, continuing with the Board's existing rules allows inefficiency and limitations on a parties' representation to continue to the detriment of the regulated community.

¹ For example, in 2006, 910 appeals were filed. In 2004, the Board received 3,170 petitions largely as a result of the 2002 general reassessment.

² The postal rates in effect for mailing packages are \$1.13 for the first ounce and \$.17 for each additional ounce. While the Board has estimated the "average" petition to weigh 3 oz. in other filings, the Board believes a business entity would likely file a bulkier petition than a residential property owner. Thus, the Board estimates that an appeal petition filed by a small business petitioner would weigh eight ounces. Therefore, 133 petitioners would incur an average postage of \$2.32 for a total estimated cost of \$308.56.

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