ARTICLE 15. ASSESSOR-APPRAISERS, PROFESSIONAL APPRAISERS, AND TAX REPRESENTATIVES

Rule 1. Definitions

50 IAC 15-1-1 Applicability
Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1

Sec. 1. The definitions in this rule apply throughout this article. *(Department of Local Government Finance; 50 IAC 15-1-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482)*

50 IAC 15-1-1.5 "Clarification of the authority of Indiana board of tax review" defined
Authority: IC 6-1.1-30-1.1; IC 6-1.1-35.5-8.5
Affected: IC 6-1.1-31-1; IC 6-1.1-35.5-6

Sec. 1.5. The department of local government finance, as successor agency to the state board of tax commissioners and under the authority of IC 6-1.1-35.5-8.5, adopts these amendments to the rules as they pertain to the department of local government finance and proceedings before the department and the property tax assessment board of appeals. Pursuant to IC 6-1.1-31-1(c), this rulemaking action does not repeal or supersede the rules of the state board of tax commissioners until the Indiana board of tax review adopts rules to repeal or supersede the rules of the state board of tax commissioners as they pertain to rules of practice before the Indiana board. *(Department of Local Government Finance; 50 IAC 15-4-1.5; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)*

50 IAC 15-1-2 "Assessor-appraiser" defined
Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1-35.5

Sec. 2. "Assessor-appraiser" means a person certified under IC 6-1.1-35.5. *(Department of Local Government Finance; 50 IAC 15-1-2; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482)*

50 IAC 15-1-2.5 "Commissioner" defined
Authority: IC 6-1.1-30-1.1; IC 6-1.1-31-1
Affected: IC 6-1.1-35.5-6

Sec. 2.5. "Commissioner" is the commissioner of the department of local government finance established under IC 6-1.1-30-1.1. *(Department of Local Government Finance; 50 IAC 15-1-2.5; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)*

50 IAC 15-1-2.6 "Department" defined
Authority: IC 6-1.1-30-1.1
Affected: IC 6-1.1-35.5-6

Sec. 2.6. "Department" is the department of local government finance established under IC 6-1.1-30-1.1. References to the department in this rule shall where necessary include its predecessor agency, the state board of tax commissioners. *(Department of Local Government Finance; 50 IAC 15-1-2.6; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)*

50 IAC 15-1-3 "Board" defined (Repealed)

Sec. 3. *(Repealed by Department of Local Government Finance; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1522)*

50 IAC 15-1-4 "Professional appraiser" defined
Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1-4

Sec. 4. "Professional appraiser" means a professional appraiser or professional appraisal firm that contracts with a township

or county under IC 6-1.1-4. *(Department of Local Government Finance; 50 IAC 15-1-4; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482)*

50 IAC 15-1-5 "Tax representative" defined (Repealed)

Sec. 5. *(Repealed by Department of Local Government Finance; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1522)*

Rule 2. Purpose

50 IAC 15-2-1 Purpose
Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1-31.7; IC 6-1.1-35.5

Sec. 1. The purpose of this article is to establish rules regarding the following:
(1) The training and education of assessor-appraisers certified under IC 6-1.1-35.5.
(2) Contracting with professional appraisers and appraisal firms required to be certified under IC 6-1.1-31.7.
(Department of Local Government Finance; 50 IAC 15-2-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482)

Rule 3. Assessor-Appraisers Certification

50 IAC 15-3-1 Level One requirements
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8
Affected: IC 6-1.1

Sec. 1. In order to be certified as a Level One assessor-appraiser, an individual must:
(1) complete six (6) hours of Level One preexamination course work designated by the department;
(2) pass the Level One examination designated by the department; and
(3) complete the continuing education requirements specified in section 2 of this rule.
(Department of Local Government Finance; 50 IAC 15-3-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)

50 IAC 15-3-2 Level One continuing education
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8
Affected: IC 6-1.1

Sec. 2. (a) The continuing education requirements for Level One certification are thirty (30) hours of course work approved by the department.
(b) For education cycles beginning prior to January 1, 2008, the continuing education requirements specified in this section must be obtained in forty-eight (48) month cycles, beginning January 1 of the first year following certification.
(c) For education cycles beginning on or after January 1, 2008, the continuing education requirements specified in this section must be obtained in twenty-four (24) month cycles, beginning January 1 of the first year following certification, or at the expiration of a cycle described in subsection (b). *(Department of Local Government Finance; 50 IAC 15-3-2; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516; filed Mar 26, 2007, 2:24 p.m.: 20070425-IR-050060172FRA)*

50 IAC 15-3-3 Level Two requirements
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5
Affected: IC 6-1.1

Sec. 3. In order to be certified as a Level Two assessor-appraiser, an individual must:
(1) complete Level Two preexamination course work designated by the department;
(2) pass the Level Two examination designated by the department;

(3) complete the continuing education requirements specified in section 4 of this rule; and
(4) attain certification as a Level One assessor-appraiser.
(Department of Local Government Finance; 50 IAC 15-3-3; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)

50 IAC 15-3-4 Level Two continuing education
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8
Affected: IC 6-1.1

Sec. 4. (a) The continuing education requirements for Level Two certification are forty-five (45) hours of course work approved by the department.
(b) For education cycles beginning prior to January 1, 2008, the continuing education requirements specified in this section must be obtained in forty-eight (48) month cycles, beginning January 1 of the first year following certification.
(c) For education cycles beginning on or after January 1, 2008, the continuing education requirements specified in this section must be obtained in twenty-four (24) month cycles, beginning January 1 of the first year following certification, or at the expiration of a cycle described in subsection (b). *(Department of Local Government Finance; 50 IAC 15-3-4; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517; filed Mar 26, 2007, 2:24 p.m.: 20070425-IR-050060172FRA)*

50 IAC 15-3-5 Miscellaneous provisions
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8
Affected: IC 6-1.1-4

Sec. 5. (a) The department shall maintain, publish, and distribute to each assessor-appraiser, a list of courses that have been accredited as approved assessor-appraiser continuing education courses. Courses that are not included on the list may be submitted for inclusion and will, at the discretion of the department, be accredited.
(b) A certified assessor-appraiser that meets the continuing education requirements of section 4 of this rule is not required to meet the continuing education requirements of section 3 of this rule in order to maintain their Level One certification.
(c) An assessor-appraiser holding a valid certification on January 1, 1999, shall be deemed certified under this rule. *(Department of Local Government Finance; 50 IAC 15-3-5; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517)*

50 IAC 15-3-6 Revocation of certification
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5
Affected: IC 6-1.1-4; IC 6-1.1-35.5-6

Sec. 6. (a) The department may revoke the Level One, Level Two, or Level Three assessor-appraiser certification of an individual for:
(1) conduct proscribed by IC 6-1.1-35.5-6(b); or
(2) noncompliance with:
(A) the continuing education provisions of this article;
(B) the provisions of the contract entered under IC 6-1.1-4; or
(C) assessing laws under IC 6-1.1 and rules of the department.
(b) The revocation procedure shall be initiated by the department's issuance of a notice to the respondent. The notice shall:
(1) be sent by certified mail, return receipt requested;
(2) contain a clear and concise statement detailing the alleged misconduct;
(3) state the time and place for a hearing not less than ninety (90) days from the date of mailing the notice; and
(4) inform the respondent:
(A) of the information contained in subsections (d) and (g); and
(B) that the failure to attend the hearing without good cause may constitute grounds for default entered in favor of the department, as well as the sanction imposed.

(c) The department shall appoint a hearing officer for purposes of these proceedings. The hearing officer may by prior written notice:

(1) conduct any prehearing proceedings:

(A) requested by either party; or

(B) that the hearing officer determines may aid in the ultimate resolution of the proceedings; and

(2) allow informal discovery subject to any terms and conditions the hearing officer deems to be appropriate.

(d) The revocation hearing shall be conducted on the record and as follows:

(1) The respondent:

(A) may be represented by counsel; and

(B) shall have the right to:

(i) present witnesses and evidence on the respondent's own behalf; and

(ii) cross-examine the department's witnesses or evidence.

(2) The burden of proof shall be on the department to prove the violation or violations alleged by a preponderance of the evidence.

(3) No continuance shall be granted except upon a showing of good cause.

(e) The hearing officer may consider any of the following in recommending to the commissioner whether respondent's Level One, Level Two, or Level Three assessor-appraiser certification should be revoked:

(1) The seriousness of the violation that gave rise to the proceedings.

(2) Whether the violation is likely to recur.

(3) The respondent's character, including remorse, if any.

(4) Whether the respondent's continued status as a Level One, Level Two, or Level Three assessor-appraiser would pose an undue risk to the public.

(5) Any other factor the hearing officer determines to be appropriate under the circumstances.

(f) The hearing officer shall submit a written recommendation for final action to the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The commissioner is not bound by the hearing officer's recommendation.

(g) If the commissioner determines that a violation of section 2(a) of this rule has occurred, the commissioner may take any of the following remedies with respect to the respondent:

(1) Decline to issue any sanction.

(2) Issue a written reprimand admonishing the respondent for the violation.

(3) Suspend the respondent's Level One, Level Two, or Level Three assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that the respondent meets all the educational requirements for a Level One, Level Two, or Level Three assessor-appraiser certification, as applicable to the proceedings.

(h) The determination of the commissioner constitutes a final appealable order of the department. *(Department of Local Government Finance; 50 IAC 15-3-6; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1518; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

50 IAC 15-3-7 Level Three requirements

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5

Affected: IC 6-1.1-4; IC 6-1.1-35.5-6

Sec. 7. In order to be certified as a Level Three assessor-appraiser, an individual must do the following:

(1) Attain certification as a Level Two assessor-appraiser.

(2) Successfully complete the following:

(A) International Association of Assessing Officials Course 101: Fundamentals of Real Property Appraisal.

(B) International Association of Assessing Officials Course 102: Income Approach to Value.

(C) International Association of Assessing Officials Course 300: Fundamentals of Mass Appraisal.

(D) International Association of Assessing Officials Course 400: Assessment Administration.

(E) Uniform Standards of Professional Appraisal Practice Workshop 151 Uniform Standards of Appraisal Practice.

(3) Complete the continuing education requirements specified in section 8 of this rule.

(Department of Local Government Finance; 50 IAC 15-3-7; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)

50 IAC 15-3-8 Level Three continuing education
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5
Affected: IC 6-1.1-4; IC 6-1.1-35.5-6

Sec. 8. (a) The continuing education requirements for Level Three certification are forty-five (45) hours of course work approved by the department.

(b) For education cycles beginning on or after January 1, 2010, the continuing education requirements specified in this section must be obtained in twenty-four (24) month cycles, beginning January 1 of the first year following certification. *(Department of Local Government Finance; 50 IAC 15-3-8; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

Rule 4. Professional Appraisers

50 IAC 15-4-1 Certification requirements
Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3
Affected: IC 6-1.1

Sec. 1. (a) To be designated as a professional appraiser, an individual must:
(1) be a certified Level Two assessor-appraiser under IC 6-1.1-35.5, but must, by December 31, 2013, be a certified Level Three assessor-appraiser under IC 6-1.1-35.5;
(2) enter a contract that contains all applicable standard contract provisions developed by the department under IC 6-1.1-4-19.5;
(3) specify in the contract entered under IC 6-1.1-4-19.5 that the contract is void if the individual's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and
(4) specify in the contract entered under IC 6-1.1-4-19.5 the precise contractual duties that:
(A) the professional appraiser will personally:
(i) fulfill; and
(ii) review, direct, administer, supervise, or oversee;
(B) will be conducted by an administrative assistant or any person other than the professional appraiser; and
(C) will remain the responsibility of the township or county.
(b) Professional appraisers that are firms must:
(1) employ a certified Level Two assessor-appraiser under IC 6-1.1-35.5, but must, by December 31, 2013, employ a certified Level Three assessor-appraiser under IC 6-1.1-35.5;
(2) enter a contract that contains all applicable standard contract provisions developed by the department under IC 6-1.1-4-19.5, including, specifically, provisions for sanctions;
(3) specify in the contract entered under IC 6-1.1-4-19.5 that the contract is void if the firm's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and
(4) specify in the contract entered under IC 6-1.1-4 the precise contractual duties that:
(A) a certified Level Two assessor-appraiser will personally fulfill, but, after December 31, 2013, the precise contractual duties a certified Level Three assessor-appraiser will personally fulfill;
(B) a certified Level Two assessor-appraiser will personally review, direct, administer, supervise, or oversee, but after December 31, 2013, the precise contractual duties that a certified Level Three assessor-appraiser will personally review;
(C) will be conducted by administrative personnel or any person other than a certified Level Two assessor-appraiser, but after December 31, 2013, the precise contractual duties that will be conducted by administrative personnel or any person other than a certified Level Three assessor-appraiser; and
(D) will remain the responsibility of the township or county.
(Department of Local Government Finance; 50 IAC 15-4-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1518; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)

Rule 5. Tax Representatives

50 IAC 15-5-1 Definitions

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-28-1; IC 6-1.1-30-11; IC 6-1.5

Sec. 1. The following definitions apply throughout this rule:

(1) "Practice before the property tax assessment board of appeals or the department" is the participation in all matters connected with a presentation to the property tax assessment board of appeals, the department, or any of their officers or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules. Such presentations include the following:

(A) Preparing and filing necessary documents, except personal property returns.

(B) Corresponding and communicating with the property tax assessment board of appeals or the department.

(C) Representing a client at hearings, on-site inspections, and meetings.

(2) "Property tax assessment board of appeals" is the county property tax assessment board of appeals established under IC 6-1.1-28-1.

(3) "Tax representative" is a person who represents another person at a proceeding before the property tax assessment board of appeals or the department. The term does not include:

(A) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;

(B) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;

(C) representatives of local units of government appearing on behalf of the unit;

(D) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or

(E) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the department to appear pro hac vice.

(4) "Indiana board" means the Indiana board of tax review established under IC 6-1.5, et seq.

(Department of Local Government Finance; 50 IAC 15-5-1; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1519)

50 IAC 15-5-2 Practice requirements

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 2. (a) In order to practice before the property tax assessment board of appeals or the department, a tax representative must:

(1) beginning July 1, 2001, be properly certified in writing by the department; and

(2) have a copy of a properly executed power of attorney from the taxpayer.

The power of attorney shall be on the form prescribed by the department and need not be refiled if the form is later revised.

(b) Property tax representatives may not be certified to practice before the property tax assessment board of appeals or the department for:

(1) matters relating to real and personal property exemptions claimed on a Form 132 or 136;

(2) claims that assessments or taxes are "illegal as a matter of law", whether brought on a Form 133 under IC 6-1.1-15-12(a)(6), on a Form 17-T under IC 6-1.1-26-1(4), on a Form 130 under IC 6-1.1-15-1, or otherwise;

(3) claims regarding the constitutionality of an assessment; or

(4) other representation that involves the practice of law.

(c) Individuals who apply for certification or recertification as a tax representative must furnish evidence to the department that they:

(1) are at least eighteen (18) years of age;

(2) hold a high school diploma or equivalent credential;

(3) are a certified Level Two assessor-appraiser, but, after December 31, 2013, they must furnish evidence that they are a certified Level Three assessor-appraiser;

(4) have completed the educational course requirements of all rules adopted by the department related to procedures for practice before the property tax assessment board of appeals or the department; and

(5) have fully complied with all rules adopted by the department regarding:
(A) professional conduct and ethical considerations; and
(B) client solicitation.

(d) A person who fulfills the requirements of subsection (c) shall be granted a written certification that shall be effective upon issuance by the department. *(Department of Local Government Finance; 50 IAC 15-5-2; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

50 IAC 15-5-3 Recertification
Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 3. Tax representative certifications expire on the same date as the tax representative's certification as a Level Two assessor-appraiser under 50 IAC 15-3-4, but, after December 31, 2013, tax representative certifications expire on the same date as the tax representative's certification as a Level Three assessor-appraiser under 50 IAC 15-3-7. *(Department of Local Government Finance; 50 IAC 15-5-3; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

50 IAC 15-5-4 Course work
Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 4. (a) Beginning January 1, 2002, a tax representative must, within each forty-eight (48) month continuing education certification cycle under 50 IAC 15-3-4, complete twelve (12) hours of course work that has been designated as tax representative practice course work approved by the department. Of the twelve (12) hours of tax representative practice course work, three (3) hours must relate to:
(1) professional conduct;
(2) ethical considerations; or
(3) client communications.

(b) The course work completed under this section will be credited toward the total continuing education course work required to maintain a Level Two assessor-appraiser certification under 50 IAC 15-3-4, but, after December 31, 2013, the course work completed under this section will be credited toward the total continuing education course work required to maintain a Level Three assessor-appraiser certification under 50 IAC 15-3-7. *(Department of Local Government Finance; 50 IAC 15-5-4; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

50 IAC 15-5-5 Communication with client or prospective client
Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-2-4

Sec. 5. (a) A certified property tax representative shall not use or participate in the use of any false, fraudulent, unduly influencing, coercive, unfair, misleading, or deceptive statement or claims with respect to any matter relating to the practice before the property tax assessment board of appeals or the department.

(b) Beginning January 1, 2001, a property tax representative shall advise the client or prospective client in writing, using a typeface of not less than 12-point, either on the power of attorney or in some other form that may be reasonably interpreted by the taxpayer (the property owner, or person liable for the taxes under IC 6-1.1-2-4) to set forth the rights of the taxpayer with regard to his or her appeal, the following:

"I understand that by authorizing _____ to serve as my certified property tax representative, I am aware of and accept the possibility that the property value may increase as a result of filing an administrative appeal with the property tax assessment board of appeals and that I may be compelled to appear at a hearing before the property tax assessment board of appeals or the department of local government finance.

I further understand that the certified property tax representative is not an attorney and may not present arguments of a legal nature on my behalf.".

(c) The disclosure shall be signed by the taxpayer. The certified property tax representative shall provide the taxpayer with

a copy of the disclosure and shall be required to provide a copy of the disclosure to the property tax assessment board of appeals. Failure to provide a signed copy of disclosure upon request may be grounds for an action for revocation of the tax representative's certification under 50 IAC 15-5-8. *(Department of Local Government Finance; 50 IAC 15-5-5; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520)*

50 IAC 15-5-6 Prohibitions; obligations

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-2-4

Sec. 6. A certified tax representative shall:

(1) not knowingly misrepresent any information or act in a fraudulent manner;

(2) not prepare documents or provide evidence in a property assessment appeal unless the representative is authorized by the property owner (or person liable for the taxes under IC 6-1.1-2-4) to do so and any required authorization form has been filed;

(3) not knowingly submit false or erroneous information in a property assessment appeal;

(4) use the appraisal standards and methods required by rules adopted by the department, Indiana board, or property tax assessment board of appeals when the representative submits appraisal information in a property assessment appeal; and

(5) notify the property owner (or person liable for the taxes under IC 6-1.1-2-4) of all matters relating to the review of the assessment of taxpayers' property before the property tax assessment board of appeals or the department, including, but not limited to, the following:

(A) The tax representative's filing of all necessary documents, correspondence, and communications with the property tax assessment board of appeal or department.

(B) The dates and substance of all hearings, on-site inspections, and meetings.

(Department of Local Government Finance; 50 IAC 15-5-6; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521)

50 IAC 15-5-7 Contingent fees

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 7. (a) In the event a tax representative or the entity with which the tax representative is affiliated charges a contingent fee for any matter relating to practice before the property tax assessment board of appeals, the Indiana board or the department, the tax representative must disclose, upon request, the existence of a contingent fee arrangement to the property tax assessment board of appeals, Indiana board, or department.

(b) As used in this section, "contingent fee" includes a fee charged by the tax representative or the entity with which the tax representative is affiliated that is based on:

(1) a percentage of the refund obtained;

(2) a percentage of the taxes saved; or

(3) a percentage of the reduction in property value.

(c) Failure to disclose the existence of a contingent fee arrangement may result in the presumption that a contingent fee arrangement exists, revocation of certification, or other discipline as provided in this article. *(Department of Local Government Finance; 50 IAC 15-5-7; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521)*

50 IAC 15-5-8 Certification; revocation

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 8. (a) The department may revoke the certification of a tax representative for the following:

(1) Violation of any rule applicable to certification or practice before the department, Indiana board, or the property tax assessment board of appeals.

(2) Gross incompetence in the performance of practicing before the property tax assessment board of appeals, the department, or the Indiana board.

(3) Dishonesty or fraud committed while practicing before the property tax assessment board of appeals, the department, or the Indiana board.

(4) Violation of the standards of ethics or rules of solicitation adopted by the department.

(b) The revocation procedure shall be initiated by the department's issuance of a notice to the respondent. The notice shall:

(1) be sent by certified mail, return receipt requested;

(2) contain a clear and concise statement detailing the alleged misconduct;

(3) state the time and place for a hearing that is not less than ninety (90) days from the date of mailing the notice; and

(4) inform the respondent:

(A) of the information contained in subsections (d) and (g); and

(B) that the failure to attend the hearing without good cause may constitute grounds for default entered in favor of the state board or the department, as well as the sanction imposed.

(c) The department shall appoint a hearing officer for purposes of these proceedings. The hearing officer may, with prior written notice to the parties:

(1) conduct any prehearing proceedings:

(A) requested by either party; or

(B) that the hearing officer determines may aid in the ultimate resolution of the proceedings; and

(2) allow informal discovery subject to any terms and conditions the hearing officer deems to be appropriate.

(d) The revocation hearing shall be conducted on the record subject to the following:

(1) The respondent:

(A) may be represented by counsel; and

(B) shall have the right to:

(i) present witnesses and evidence on the respondent's own behalf; and

(ii) cross-examine the department's witnesses or evidence.

(2) The burden of proof shall be on the department to prove the violation or violations alleged by a preponderance of the evidence.

(3) No continuance shall be granted except upon a showing of good cause.

(e) The hearing officer may consider any of the following in recommending to the commissioner whether the respondent's tax representative certification should be revoked:

(1) The seriousness of the violation that gave rise to the proceedings.

(2) Whether the violation is likely to recur.

(3) The respondent's character, including remorse, if any.

(4) Whether the respondent's continued status as a tax representative would pose an undue risk to the public.

(5) Any other factor the hearing officer determines to be appropriate under the circumstances.

(f) The hearing officer shall submit a recommendation for final action to the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The commissioner is not bound by the recommendation.

(g) If the commissioner determines that a violation of section 2(a) of this rule has occurred, the commissioner may take any of the following remedies with respect to the respondent:

(1) Decline to issue any sanction.

(2) Issue a written reprimand admonishing the respondent for the violation.

(3) Suspend the respondent's Level One, Level Two, or Level Three assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that respondent meets all educational requirements for a tax representative certification.

(4) Revoke the certification of the respondent for a period of not less than one (1) year, and not more than three (3) years, at the conclusion of which respondent may petition the department for reinstatement provided that respondent meets all of the criteria for certification under this rule.

(h) The determination of the commissioner constitutes a final appealable order of the department, respectively. *(Department of Local Government Finance; 50 IAC 15-5-8; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

*