

## **IC 6-1.5-5**

### **Chapter 5. Appeals of Final Determinations by the Department of Local Government Finance**

#### **IC 6-1.5-5-1**

##### **Review of appeals; notice of final determination; procedures for initiation of appeal**

Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:

- (1) IC 6-1.1-8.
- (2) IC 6-1.1-14-11.
- (3) IC 6-1.1-16.
- (4) IC 6-1.1-26-2.
- (5) IC 6-1.1-45-6.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

- (1) the opportunity for review under this section; and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(c) Except as provided in subsection (e), in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor not later than forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board not later than ten (10) days after the petition is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

*As added by P.L.198-2001, SEC.95. Amended by P.L.178-2002, SEC.40; P.L.1-2003, SEC.31; P.L.256-2003, SEC.32; P.L.245-2003, SEC.22; P.L.97-2004, SEC.24; P.L.208-2005, SEC.2.*

#### **IC 6-1.5-5-2**

##### **Hearings; resolution by Indiana board; notice; auditor duties**

Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

- (1) conduct a hearing; or
- (2) cause a hearing to be conducted by an administrative law judge.

The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may correct any errors that may have been made and adjust the assessment in

accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing by mail to:

- (1) the taxpayer;
- (2) the department of local government finance; and
- (3) the appropriate:
  - (A) township assessor (if any);
  - (B) county assessor; and
  - (C) county auditor.

(d) With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notices required under subsection (c) must include the following:

- (1) The action of the department of local government finance with respect to the appealed items.
- (2) A statement that a taxing unit receiving the notice from the county auditor under subsection (e) may:
  - (A) attend the hearing;
  - (B) offer testimony; and
  - (C) file an amicus curiae brief in the proceeding.

(e) If, after receiving notice of a hearing under subsection (c), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. A taxing unit that receives a notice from the county auditor under this subsection is not a party to the appeal. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

(f) The Indiana board shall give the notices required under subsection (c) at least thirty (30) days before the day fixed for the hearing.

*As added by P.L.198-2001, SEC.95. Amended by P.L.245-2003, SEC.23; P.L.199-2005, SEC.15; P.L.154-2006, SEC.62; P.L.219-2007, SEC.89; P.L.146-2008, SEC.308.*

### **IC 6-1.5-5-3**

#### **Forms**

Sec. 3. The Indiana board shall prescribe a form for use in processing petitions for review of actions by the department of local government finance. The Indiana board shall issue instructions for completion of the form.

*As added by P.L.198-2001, SEC.95.*

### **IC 6-1.5-5-4**

#### **Additional evidence; additional hearings; determination based on stipulation; findings**

Sec. 4. (a) After conducting a hearing, the Indiana board may take additional evidence or hold additional hearings.

(b) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

- (1) order that a final determination under this subsection has no precedential value; or
- (2) specify a limited precedential value of a final determination under this subsection.

(c) If the Indiana board does not issue its final determination under subsection (b), the Indiana board's final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must:

- (1) be based exclusively on:
  - (A) the evidence on the record in the proceeding; and
  - (B) matters officially noticed in the proceeding; and
- (2) be based on a preponderance of the evidence.

*As added by P.L.198-2001, SEC.95. Amended by P.L.245-2003, SEC.24; P.L.219-2007, SEC.90.*

#### **IC 6-1.5-5-5**

##### **Notice by Indiana board; county auditor to give notice to taxing units**

Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor (if any), the county assessor, the county auditor, and the department of local government finance:

- (1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and
- (2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

The county auditor shall provide copies of the documents described in subdivisions (1) and (2) to the taxing units entitled to notice under section 2(e) of this chapter.

*As added by P.L.198-2001, SEC.95. Amended by P.L.199-2005, SEC.16; P.L.154-2006, SEC.63; P.L.146-2008, SEC.309.*

#### **IC 6-1.5-5-6**

##### **Time limits for hearings and final determination; appeal options; when de novo review required**

Sec. 6. (a) The Indiana board shall conduct a hearing or cause a hearing to be conducted within six (6) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(b) The Indiana board shall make a final determination within the later of forty-five (45) days after the hearing or the date set in an

extension order issued by the Indiana board. However, the Indiana board may not extend the final determination date by more than one hundred eighty (180) days.

(c) The failure of the Indiana board to conduct a hearing within the period prescribed in this section does not constitute notice to the person of an Indiana board final determination.

(d) If the Indiana board fails to make a final determination within the time allowed by this section after a hearing, the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) initiate a proceeding for judicial review by taking the action required by IC 6-1.1-15-5(b) at any time after the maximum time elapses.

(e) If:

(1) a judicial proceeding is initiated under subsection (d); and

(2) the Indiana board has not issued a determination;

the tax court shall determine the matter de novo.

*As added by P.L.198-2001, SEC.95. Amended by P.L.154-2006, SEC.64.*

#### **IC 6-1.5-5-7**

##### **Judicial review of final determinations**

Sec. 7. A final determination of the Indiana board is subject to judicial review under IC 6-1.1-15. The:

(1) local government official who made the original determination under judicial review; and

(2) department of local government finance;

are parties to a judicial review initiated under this section.

*As added by P.L.198-2001, SEC.95.*

#### **IC 6-1.5-5-8**

##### **Applicability of IC 6-1.1-15; substitution of department of local government finance**

Sec. 8. (a) IC 6-1.1-15, as in effect before January 1, 2002, applies to an appeal of a final determination of the state board of tax commissioners issued before January 1, 2002.

(b) The department of local government finance is substituted for the state board of tax commissioners in an appeal described in subsection (a).

*As added by P.L.198-2001, SEC.95.*

#### **IC 6-1.5-5-9**

##### **Subpoenas; oaths**

Sec. 9. In order to obtain information that is necessary to the Indiana board's conduct of a necessary or proper inquiry, the Indiana board or a board administrative law judge may:

(1) subpoena and examine witnesses;

(2) administer oaths; and

(3) subpoena and examine books or papers that are in the hands

of any person.  
*As added by P.L.198-2001, SEC.95.*

**IC 6-1.5-5-10**

**Affidavits; writs directing appearance or production**

Sec. 10. (a) The Indiana board may file an affidavit with a circuit court of this state if:

- (1) the Indiana board has requested that a person give information or produce books or records; and
- (2) the person has not complied with the request.

(b) An affidavit filed under subsection (a) must state that the person has not complied with the request of the Indiana board to give information or produce books or records.

(c) When an affidavit is filed under subsection (a), the circuit court shall issue a writ that directs the person to appear at the office of the Indiana board and to give the requested information or produce the requested books or records. The appropriate county sheriff shall serve the writ. Disobedience of the writ is punishable as a contempt of the court that issued the writ.

(d) If a writ is issued under this section, the cost incurred in filing the affidavit, in the issuance of the writ, and in the service of the writ shall be charged to the person against whom the writ is issued. If a writ is not issued, all costs shall be charged to the county in which the circuit court proceedings are held, and the board of commissioners of that county shall allow a claim for the costs.

*As added by P.L.198-2001, SEC.95.*