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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** School Corporation Officials

**FROM:** Fred Van Dorp, Budget Division Director

**SUBJECT:** School Corporation Waiver from the Implementation of Protected Taxes

**DATE:** April 16, 2019

This memorandum will discuss the procedures for a school corporation to waive the implementation of protected taxes for 2019. This memorandum supersedes all previous memoranda on this subject. This memorandum does not take the place of Indiana law. The Department of Local Government Finance (“Department”) and all local units of government are bound to due dates and responsibilities as outlined in law. In the event any part of this memorandum conflicts with Indiana law, Indiana law governs.

Protected taxes are designed to ensure sufficient tax collections in a taxing unit’s debt service funds in order to meet debt service obligations. In order to “protect” the debt service funds, the circuit breaker credits attributable to the tax rate for the debt service funds are applied against a taxing unit’s “unprotected” funds, i.e., its non-debt service funds. IC 6-1.1-20.6-9.9 allows eligible school corporations a waiver from the implementation of protected taxes under IC 6-1.1-20.6-9.8. School corporations that are eligible for the waiver in a given year will be allowed to allocate their 1%/2%/3% circuit breaker credits proportionally across all funds that are not exempt from circuit breaker credits without regard for whether the fund is a debt service fund. Only exempt (voter-approved referendum) funds are excluded from the application of 1%/2%/3% circuit breaker credits. Exempt funds are not excluded from the application of the Over 65 credits provided for in IC 6-1.1-20.6-8.5. This means debt service funds will be allowed to experience a loss associated with 1%/2%/3% circuit breaker credits for those school corporations that are eligible for and timely request the waiver from the implementation of protected taxes.

Please be aware that IC 6-1.1-20.6-9.9 imposes a restriction on a school corporation taking on new debt. If a school corporation in 2017, 2018, or 2019 issues new bonds or enters into a new lease rental agreement for which the school corporation is imposing or will impose a debt service levy (except a levy to refinance or renew prior bond or lease rental obligations existing before January 1, 2017, or indebtedness approved by a local public question or referendum), and the school corporation’s total debt service levy and rate in the applicable year is greater than the school corporation’s 2016 debt service levy and rate, the school corporation is **not eligible** to allocate credits proportionately. For purposes of what counts as “new debt,” the Department does not consider a common school fund loan taken out in 2017, 2018, or 2019 as new debt (but it

will be included as part of the debt service levy and rate if the comparison with the 2016 debt service levy and rate has to be made).

An eligible school corporation that would like to waive the implementation of protected taxes must submit a written request to the Department. **All requests must be received by April 30.** After receiving a written request from a school corporation, the Department shall determine whether the percentage computed by the school corporation is accurate and whether the school corporation is eligible for the waiver from the implementation of protected taxes. The Department must complete its actions by June 1 of the year for which the waiver is requested.

Each waiver applies only to one applicable tax year. A school corporation that is approved in one year for a waiver must submit a new written request and calculation again in each year in order to qualify. More specifically, if a school corporation received a waiver in 2018, it must submit a written request again by April 30, 2019 using 2019 circuit breaker credit and levy information in order to qualify for the waiver in 2019.

In order to facilitate the calculation detailed below and the written request by the school corporation, the Department has prepared State Form 56028 – Written Request for Waiver from Implementation of Protected Taxes under IC 6-1.1-20.6-9.9. This form is available on the DLGF website at <https://www.in.gov/dlgf/8516.htm>. All school corporations submitting a waiver from the implementation of protected taxes should complete this form and submit it via email to their Budget field representative. The Budget field representative contact information may be found at <http://www.in.gov/dlgf/2338.htm>. It is recommended, but not required, that the application to be accompanied with a school board resolution or similar action authorizing submission of the application.

A school corporation should submit this request only if it intends to proceed with the waiver. A school corporation that submits a request but later rescinds it could delay or disrupt its 2020 budget certification. School corporations are highly encouraged to review their financial situation, work with their financial advisors, or confer with the Department about how the mechanics of waiving protected taxes will affect the school corporations' other funds before submitting their requests.

For those school corporations that have timely submitted a written request and that the Department has determined to be eligible for the waiver from the implementation of protected taxes, additional steps will be necessary when the school corporation receives its tax distributions in June and December. The school corporation will be responsible for reallocating its tax distribution among the appropriate funds in order to eliminate the impact of protected taxes. Further information and guidance on this process will be provided by the Department in advance of the June tax distributions.

If you have any questions, please contact your Budget Field Representative. Contact information can be found at: [www.in.gov/dlgf/2338.htm#BudgetFld](http://www.in.gov/dlgf/2338.htm#BudgetFld).