
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Assessing Officials & Property Tax Boards of Appeal
FROM: Wesley R. Bennett, Commissioner
RE: Legislation Affecting Assessment Matters
DATE: June 10, 2020

Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law.

I. Business Personal Property Appeal Determination Deadline

On March 21, 2020, Governor Holcomb signed into law House Enrolled Act 1113-2020 (“HEA 1113”). Section 19 of HEA 1113 clarifies that a taxpayer may appeal a change in the assessed value of personal property made by the county assessor by filing an appeal with the county property tax board of appeals (“PTABOA”) under Ind. Code § 6-1.1-15-1.1. Additionally, HEA 1113 specifies that a taxpayer may appeal a change in the assessed value of personal property made by the PTABOA by filing a written notice of review with the Indiana Board of Tax Review. Prior to this legislative change, Ind. Code § 6-1.1-16-1(a)(2) set a deadline of October 30 for a PTABOA to enter a final determination of a personal property assessment change made by an assessor. If a final determination was not made by October 30, the taxpayer’s self-reported assessment became final.

Under the previous language of Ind. Code § 6-1.1-16-1, county assessors had a little over five (5) months to review a personal property assessment, incorporate any necessary changes to the valuation for undervalued or omitted property, and work with the PTABOA to schedule a final determination hearing. This narrow timeline coupled with the additional procedural requirements that had to be met by the county assessor, would occasionally result in the county running out of time before the PTABOA could make a final determination. Section 19 of HEA 1113 clarifies that either the county assessor or the PTABOA has until the later of October 30 or five (5) months from the personal property filing date to make a change in the reported assessed value. With this legislative change, the taxpayer - not the county assessor - has the obligation to initiate an appeal for any disputed change to the reported assessed value. Beginning July 1, 2020, the amended portions of Ind. Code § 6-1.1-16-1 will be as follows:

IC 6-1.1-16-1

Notice; time requirements; appeal of preliminary determination

Sec. 1. (a) Except as provided in section 2 of this chapter, an assessing official or county property tax assessment board of appeals may not change

the assessed value claimed by a taxpayer on a personal property return unless the assessing official or county property tax assessment board of appeals take the action and gives the notice required by IC 6-1.1-3-20 within the following periods:

...

(2) A county assessor must make a change in the assessed value and give the notice of the change on or before the later of:

- (A) October 30 of the year for which the assessment is made; or
- (B) five (5) months from the date the personal property return is filed if the return is filed after the filing date for the personal property tax return.

(3) A county property tax assessment board of appeals must make a change in the assessed value and give notice of the change on or before the later of:

- (A) October 30 of the year for which the assessment is made; or
- (B) five (5) months from the date the personal property return is filed if the return is filed after the filing date for the personal property tax return.

This subdivision does not apply to a determination by a county property tax assessment board of appeals acting upon a petition for review filed under subsection (e)(1).

...

(e) A taxpayer may appeal a change in the assessed value under this section as follows:

- (1) A taxpayer may appeal a change in the assessed value under subsection (a)(1) or (a)(2) by filing a written notice of review with the county property tax assessment board of appeals under IC 6-1.1-15-1.1.
- (2) A taxpayer may appeal a change in the assessed value under subsection (a)(3) by filing a written notice of review with the Indiana board under IC 6-1.1-15-3.

...

II. Business Personal Property Overpayment Refund

On March 21, 2020, Governor Holcomb signed into law House Enrolled Act 1065-2020 (“HEA 1065”). Section 3 of HEA 1065 provides that, if a taxpayer believes that they have overreported a personal property assessment that is discovered during the course of a personal property assessment audit for which the assessing official fails to make an adjustment to correct the error in overreporting, the taxpayer may:

- (1) Initiate an appeal with the PTABOA under IC 6-1.1-15-1.1 for a credit to offset any resulting overpayment; or
- (2) File a claim for refund under IC 6-1.1-26-1.1 (Form 17T) for personal property taxes paid with regard to any resulting overpayment.

Section 4 of HEA 1065 authorizes a taxpayer to file an appeal with the Indiana Board of Tax Review for the denial of an overpayment refund claim by the county auditor, the county assessor, or the PTABOA. Both Section 3 and Section 4 of HEA 1065 were retroactively effective as of January 1, 2019.

III. Tax Installments Instead of Refund

Prior to 2020, county auditors could elect to apply large real property tax refunds of at least \$100,000 against future tax bills over a period of five (5) years or less. This election applied only to large refunds that resulted from appeals of real property tax assessments paid after May 1, 2015. However, the provisions under Ind. Code § 6-1.1-26-4.1 expired on December 31, 2019.

Section 46 of HEA 1113 indefinitely extends the authority of county auditors to issue these credits under a three-tiered approach. Indiana Code § 6-1.1-26-4.2 specifies that refunds of at least \$500,000 but less than \$5,000,000 may be credited over a period of five (5) years or less. For refunds of at least \$5,000,000 but less than \$10,000,000, the county auditor may issue credits over a period of seven (7) years or less, and refunds of at least \$10,000,000 may be credited over a period of ten (10) years or less.

These refund provisions will first apply to refunds for assessment dates beginning in 2015, but they will not apply if there is any refund for the property that was paid before January 1, 2020. If a claimant is no longer the owner of the property that was subject to the appeal, the overpayment may not be applied as a credit and the overpayment may instead be refunded in equal installments over the period of time corresponding with the refund amount.

IV. Golf Course Assessments

Section 7 of HEA 1113 specifies that the term “golf course” is defined to mean an area of land that is predominantly used to play the game of golf and any associated yard improvements. Additionally, HEA 1113 defines the term “yard improvements” to include a clubhouse, irrigation systems, a pro shop, a maintenance building, a driving range, a structure for food and beverage services, or any other buildings that are associated with the operation of and included in the net operating income of a golf course. This amended definition of what is considered a golf course for assessment purposes is similar to the yearly guidance issued by the Department for golf course assessments.

The amended provisions still include the requirement that the income capitalization approach should be used to determine the true tax value of a golf course; however, the revised statute eliminates the requirement that the uniformity and equality apply to courses of “similar grade quality and play length.” Currently, similar courses with dissimilar income streams may be similarly assessed, but the revised statute merely stresses that there must be a uniform and equal assessment of golf courses.

On or before December 31 of each year, local assessing officials must solicit data for the gross income and allowable operating expenses from golf course owners or operators for use in determining the overall assessed value of a golf course. In order to obtain the average net

operating income, local assessing officials must examine three (3) years of income and expense data. The three (3) year average should include the most current completed financial records and filed federal tax returns for the golf course as of the assessment date. Indiana Code § 6-1.1-4-42(g) also specifies that golf course owners or operators are required to provide the requested data to the assessing official. Section 7 of HEA 1113 was retroactively effective as of January 1, 2020.

V. Industrial Facility Assessments

Section 10 of HEA 1113 increases the estimated true tax value of industrial facilities in Lake County that are subject to assessment by the Department from \$25,000,000 to \$35,000,000 or more. Additionally, Section 13 of HEA 1113 specifies that the estimated true tax value threshold for industrial facilities in all other counties that may petition the Department to complete the yearly assessment was increased from \$25,000,000 to \$35,000,000 or more.

Section 11 of HEA 1113 clarifies that township assessors and vendors who contract with the county are prohibited from assessing industrial facilities in Lake County that are assessed by the Department. Current law prohibits the county assessor, an assessing official, and the PTABOA from assessing an industrial facility that is assessed by the Department. Section 12 and 14 of HEA 1113 clarifies that township assessors, as well as the county assessor, should provide support to the Department's assessment field representative who is assessing an industrial facility. Sections 10-14 will be effective on July 1, 2020.

VI. Inventory Definition

Section 1 of HEA 1065 amends the definition of "inventory" for purposes of personal property taxation to include uniforms, garments, linens, and facilities services supplies owned, held, possessed, or controlled for the purpose of rental or lease in the ordinary course of trade or business. Section 1 of HEA 1065 is retroactively effective as of January 1, 2014.

VII. Sales Disclosure Form Updates

Under current law, Ind. Code § 6-1.1-5.5-5 outlines the information that must be included in the Sales Disclosure Form (State Form 46021). Section 9 of HEA 1113 eliminates the following data points related to seller-provided financing:

- (1) Interest Rate
- (2) Points
- (3) Type of Loan
- (4) Amount of Loan
- (5) Amortization Period
- (6) Personal Liability of Borrower for Repayment.

While the legislative changes remove the detailed reporting requirements, the general category of information related to seller-provided financing is still a required portion of the Sales Disclosure Form. Section 9 of HEA will be effective on July 1, 2020.

Contact Information

Questions may be directed to Emily Crisler, Deputy General Counsel, at (317) 234-8624 or emcrisler@dlgf.in.gov.