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 14, 2022**

The Department of Local Government Finance ("Department") issues this memorandum to inform the public of legislative changes in assessment matters. Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law.

I. Property Record Cards

On March 21, 2022, Governor Eric J. Holcomb signed into law House Enrolled Act 1260-2022 ("HEA 1260"). Section 8 of HEA 1260 specifies that county assessing officials must provide electronic access to property record cards on the county's official website. This means that beginning July 1, 2022, taxpayers' official Indiana Residential Property Record Card (State Form 50055), Indiana Commercial and Industrial Property Record Card (State Form 50056), and Indiana Agricultural Property Record Card (State Form 50057) must be available on the county website or through the county's geographic information system website.

II. State Distributable Property

Section 9 of HEA 1260 adds a new statute (Ind. Code § 6-1.1-8-25.5), which specifies that a local assessing official must notify the Department when any fixed property owned or used by a public utility company goes from being assessed as state distributable property to property that will be assessed locally. For purposes of this notification, a public utility company is defined to include a company that is subject to taxation under Ind. Code § 6-1.1-8, which may include:

(1) Bridge companies;
(2) Bus companies;
(3) Light, heat, or power companies;
(4) Pipe line companies;
(5) Railroad companies;
(6) Railcar companies;
(7) Sleeping car companies;
(8) Telephone, telegraph, or cable companies; or
(9) Tunnel companies.

Additionally, the Department will be required to notify a company subject to state distributable property tax if any of the property that the Department previously assessed is now to be assessed locally.

III. Annual Appeals Data ("PTABOA Annual Report")

Section 43 of HEA 1260 amends Ind. Code § 6-1.1-28-12, which outlines the requirements for the PTABOA Annual Report that is submitted to the Department and the Legislative Services Agency ("LSA") through Gateway. Effective July 1, 2022, the PTABOA Annual Report will include the following additional data fields:

> **IC 6-1.1-28-12**
> **Annual report of notices filed; requirements**
> …
> (c) The report required by subsection (b) must include the following information:
> …
> **(8) The total number of parcels in the county.**
> **(9) The total reduction in assessed valuation requested by appellants in the reporting year.**
> **(10) The total reduction in assessed valuations approved by the county PTABOA in the reporting year.**
> **(11) The average length of time for an appeal in the reporting year.**
> **(12) The number of appeals for:**
> **(A) agricultural parcels;**
> **(B) residential parcels;**
> **(C) commercial parcels;**
> **(D) industrial parcels;**
> **(E) utility parcels;**
> **(F) exempt parcels; and**
> **(G) mobile or manufactured homes.**
> **(13) The number of appeals withdrawn.**
> **(14) The number of appeals where a taxpayer is represented by:**
> **(A) a tax representative; or**
> **(B) an attorney.**
> **(15) Any other information as required by the department of local government finance.**

In addition to the new data fields listed above, Section 43 of HEA 1260 also changes the deadline for submission of the PTABOA Annual Report from April 1 to January 15. In other words, the PTABOA Annual Report including appeals data from 2022 will be due by January 15, 2023. The Department will work to update the PTABOA Appeal Report application in Gateway and the corresponding state form in the upcoming months.

IV. Formal Complaints to Department

During the 2021 Legislative Session, House Enrolled Act 1166-2021 specified that if a taxpayer has reason to believe that a township assessor, county assessor, an employee of the township or county assessor, or an appraiser violated Ind. Code § 6-1.1-35.7-4(a) (does not have the necessary competency to perform the assessment) or Ind. Code § 6-1.1-35.7-3 (failed to adhere to the Uniform Standards of Professional Appraisal Practices or engaged in a prohibited action), the taxpayer may submit a written complaint to the Department. Section 45 of HEA 1260 specifies that the Department may not review a written complaint that is related to a matter that is under appeal with a county PTABOA, the Indiana Board of Tax Review, or the Indiana Tax Court.

V. Pro Hac Vice Admission

While Indiana Code previously required that the Department grant temporary admission for a lawyer licensed from out of state to appear on behalf of a taxpayer for a property tax appeal (pro hac vice), Section 44 of HEA 1260 specifies the Department is no longer required to approve out-of-state lawyers for temporary admission. Effective July 1, 2022, an attorney who is a member in good standing of any other state bar may be granted temporary admission to the Indiana bar by a court of competent jurisdiction.

VI. Infrastructure Development Zones

Sections 10, 28, and 29 of HEA 1260 provides that assessing officials may exempt designated infrastructure developments zone broadband assets, including centrally assessed telephone and cable companies, when they make eligible investments in the zone established in Ind. Code § 6-1.1-12.4-5. Once the Department certifies the zone and the assessed values, the county auditor shall reduce the Department's certified values for each qualified state assessed personal property.

VII. PTABOAs & Exemptions

Section 11 of HEA 1260 amends Ind. Code § 6-1.1-11-4 to clarify that the property tax assessment board of appeals ("PTABOA") may review, adjust, and retract property tax exemptions.

> **IC 6-1.1-11-4**
> **Exemption application not required in certain cases; transfer or change in use of property after assessment date**
> …
> **(g) This section shall not be construed to limit the authority of the county property tax assessment board of appeals to review the ongoing eligibility of a property for an exemption. A county property tax assessment board of appeals shall disapprove an exemption application in any year following the initial approval of the application if the property is not eligible for an exemption.**

The new language above specifies that the PTABOA may review the ongoing eligibility of an exemption and the board may disapprove any exemption after the year it is approved if they have received evidence that the taxpayer is no longer eligible for the exemption.

VIII. Business Personal Property & Places of Worship

Section 6 of HEA 1260 amends Ind. Code § 6-1.1-3-7 regarding the filing requirements for business personal property tax returns. With this new language churches and religious societies that have filed business personal property tax returns for five (5) years and who were exempt from taxes in those five (5) years will not have to file business personal property returns going forward unless either of the following occur:

(1) There is a change in ownership; or
(2) There is any other change that results in the personal property no longer being eligible for an exemption and the church or religious society would otherwise be liable for property taxes imposed.

Section 6 of HEA 1260 is effective January 1, 2023, and will therefore first apply to business personal property tax returns that would be filed by May 15, 2023.

IX. Business Personal Property & Exempt Returns

On March 15, 2022, Governor Eric J. Holcomb signed into law Senate Enrolled Act 382-2022 ("SEA 382"). Section 11 of SEA 382 amends Ind. Code § 6-1.1-3-7.2 regarding exemptions for certain business personal property with acquisition costs that are less than $80,000. Under current law, taxpayers who have less than $80,000 of depreciable asset acquisition costs in a county are exempt from personal property tax; however, these taxpayers are still required to file a business personal property return claiming the exemption. With the new language in Section 11 of SEA 382, a taxpayer who has filed a return claiming the exemption for a year and who continues to qualify for the exemption will not have to file a return to claim the exemption in subsequent years.

IC 6-1.1-3-7.2
Exemption for certain business personal property with acquisition cost less than $80,000; information required on return

…

(e) **Subject to subsection (f),** a taxpayer that is eligible for the exemption under this section for an assessment date shall include the following information on the taxpayer's personal property tax return:

(1) A declaration that the taxpayer's business personal property in the county is exempt from property taxation.
(2) Whether the taxpayer's business personal property within the county is in one (1) location or multiple locations.
(3) An address for the location of the property.

If the business personal property is in multiple locations within a county, the taxpayer shall provide an address for the location where the sum of acquisition

costs for business personal property is greatest. If two (2) or more addresses contain the greatest equivalent sum of acquisition costs for business personal property within a given county, the taxpayer shall choose only one (1) address to list on the return.

(f) Beginning after December 31, 2022, a taxpayer that has included the information required under subsection (e) on the taxpayer's personal property tax return to claim the exemption under this section is not required to file a personal property return for the taxpayer's business personal property for an assessment date that occurs after the assessment date for which the information is first provided under subsection (e), unless or until the taxpayer no longer qualifies for the exemption under subsection (d) for a subsequent assessment date.

Section 11 of SEA 382 is effective January 1, 2023, and will therefore first apply to business personal property tax returns that would be filed by May 15, 2023.

X. Assessment of Self-Service Storage Facilities

Section 12 of SEA 382 adds a new statute Ind. Code § 6-1.1-4-46 regarding the assessment of self-service storage facilities. Under current law, assessing officials may use any of the three (3) standard assessment approaches to assess self-service storage facilities: (1) reproduction cost less depreciation; (2) comparative sales; and (3) capitalization of income. With the new language in Ind. Code § 6-1.1-4-46, the true tax value of a self-service storage facility must be determined based solely on the land and the improvements, less normal depreciation, and normal obsolescence. Additionally, the value of self-service storage facilities must be equal to the lowest value computed under the three (3) standard assessment approaches, excluding any business intangible value.

Ind. Code § 6-1.1-4-46
(NEW)

Sec. 46. (a) This section applies to assessment dates after December 31, 2022.

(b) As used in this section, "self-service storage facility" means any real property designed and used for the renting of space under a rental agreement that provides a renter access to rented space for the storage and retrieval of the renter's property.

(c) The true tax value of a self-service storage facility must be determined based solely on the land and the improvements, less normal depreciation and normal obsolescence, and must exclude business intangible value. Business intangible value is any value of the self-service storage facility and related business operations in excess of the depreciated replacement cost of the improvements and the value of the land.

(d) The true tax value of a self-service storage facility is the lowest valuation determined by applying each of the following appraisal approaches and excluding business intangible value:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation, together with estimates of the losses in value that have taken place due to wear and tear, design and plan, and other depreciation and obsolescence.
(2) Sales comparison approach, using data for generally comparable property.
(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

Section 12 of SEA 382 is effective July 1, 2022, and will apply to assessment beginning January 1, 2023.

XI. Annual Adjustments for Agricultural Improvements & Abatements

On March 7, 2022, Governor Holcomb signed into law Senate Enrolled Act 119-2022 ("SEA 119"). Section 1 of SEA 119 adds new language to Ind. Code § 6-1.1-4-4.5 specifying that the annual adjustment factors used for residential, commercial, or industrial properties do not apply to agricultural improvements. The residential part of agricultural properties shall be adjusted using a factor from the same geographic area for similar residences.

Ind. Code § 6-1.1-4-4.5
Annual adjustment of assessed value of real property

Sec. 4.5. (a) The department of local government finance shall adopt rules establishing a system for annually adjusting the assessed value of real property to account for changes in value in those years since a reassessment under section 4.2 of this chapter for the property last took effect.

…

(e) For an assessment beginning after December 31, 2022, agricultural improvements such as but not limited to barns, grain bins, or silos on land assessed as agricultural shall not be adjusted using factors, such as neighborhood delineation, that are appropriate for use in adjusting residential, commercial, and industrial real property. Those portions of agricultural parcels that include land and buildings not used for an agricultural purpose, such as homes, homesites, and excess residential land and commercial or industrial land and buildings, shall be adjusted by the factor or factors developed for other similar property within the geographic stratification. The residential portion of agricultural properties shall be adjusted by the factors applied to similar residential purposes.

…

In addition to the clarification for annual adjustments, SEA 119 also establishes an abatement for new farm equipment and new agricultural improvements. This new abatement can be established using the same procedures for a tax abatement under current law (Ind. Code § 6-1.1-12.1) for

new manufacturing equipment, new research and development equipment, new logistical distribution equipment, and new information technology equipment. However, unlike the other forms of abatement, the abatement schedule for new farm equipment and new agricultural improvements is limited to not more than five (5) years. Section 2 of SEA 119 defines "new farm equipment" and "new agricultural improvement" to include the following:

> **Ind. Code § 6-1.1-12.1-1**
> **Definitions**
> …
> **(14) "New farm equipment" means tangible personal property that:**
> **(A) a deduction applicant installs after June 30, 2022, and on or before the approval deadline determined under section 9 of this chapter, in an area that will be predominately used for agricultural purposes for a period specified by the designating body as a condition of being declared an economic revitalization area;**
> **(B) is used in the direct production, extraction, harvesting, or processing of agricultural commodities for sale on land classified as agricultural land for property tax purposes;**
> **(C) was acquired for use as described in clause (B) in an arms length transaction from an entity that is not an affiliate of the deduction applicant; and**
> **(D) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).**
> **(15) "New agricultural improvement" means any improvement made to land classified as agricultural land for tax purposes that is placed in service after December 31, 2022, and that will be predominately used for agricultural purposes for a period specified by the designating body as a condition of being declared an economic revitalization area. The term includes a barn, grain bin, or silo.**

All Sections of SEA 119 are effective July 1, 2022.

XII. Commercial Properties

On March 10, 2022, Governor Eric J. Holcomb signed into law Senate Enrolled Act 145-2022 ("SEA 145"). Section 1 of SEA 145 specifies that new commercial retail properties with at least 100,000 square feet that is occupied by a single retailer will be assessed under the cost approach for the first five (5) years of occupancy, so long as the property was not vacated by the original occupant or substantially and adversely impacted by a change in a roadway or traffic pattern. The assessment under the cost approach will be based on the standard construction cost per square foot provided by the Department. Additionally, depreciation may not be based on data derived from the sales comparison or income capitalization approaches, and the value of land may be determined based on the sales comparison approach.

Ind. Code § 6-1.1-4-43.5
(NEW)

Sec. 43.5. (a) This section applies to a commercial property with a structure, or a portion thereof, that:

(1) is at least one hundred thousand (100,000) square feet in area;

(2) is used for retail purposes;

(3) is occupied by a single retailer; and

(4) is assessed for the first time after December 31, 2022.

(b) This section does not apply to a property described in subsection (a) that:

(1) was vacated by the original occupant for which the property was constructed;

(2) was constructed more than five (5) years prior to the assessment date; or

(3) was substantially and adversely impacted by a change in a roadway or traffic pattern.

(c) If a single retailer leases or subleases small undivided portions of a structure, the structure shall still be considered occupied by a single retailer.

(d) For assessment dates beginning after December 31, 2022, the true tax value of a commercial property subject to this section shall be determined by application of the cost approach. In applying the cost approach, estimates of depreciation and obsolescence shall not be based on data derived from the sales comparison or income capitalization approaches. The department of local government finance shall establish a standard construction cost per square foot for the purpose of applying the cost approach to commercial property subject to this section. The department shall update the standard construction cost per square foot annually. When requesting a review of an assessment under this section, a taxpayer may present an appraisal based on the cost approach as evidence that the taxpayer's actual construction cost was lower than the department's determined standard construction cost per square foot that was used to assess the property. Notwithstanding this section, the value of the land component may be determined based on the sales comparison approach.

(e) If the entire commercial property is occupied by a single retailer as a single economic unit, the entire commercial property shall be valued under this section. If only a portion of the commercial property forms a single economic unit occupied by a single retailer, then only that portion of the commercial property shall be valued under this section.

…

Senate Enrolled Act 145 also specifies that when requesting a review of the assessment, a taxpayer may present an appraisal based on the cost approach as evidence that the actual construction cost was lower than the standard construction cost per square foot determined by the Department. Parties to any appeal may enter into a written agreement stipulating to the true tax

value of the property. Additionally, SEA 145 provides that the fiscal officer of the county may establish a separate account for the tax receipts that are attributable to the property tax assessment that is the subject of review. All provisions of SEA 145 are effective January 1, 2023.

XIII. Mini-Mills

On March 15, 2022, Governor Eric J. Holcomb signed into law House Enrolled Act 1002-2022 ("HEA 1002"). Section 2 of HEA 1002 adds IC 6-1.1-3-23.5 as a new section affecting mini-mill equipment. This section is effective July 1, 2022. A "mini-mill" is defined in this section as a person, including a subsidiary of a corporation, that produces steel in Indiana using an electric arc furnace. Additionally, "mini-mill equipment" is defined as depreciable personal property (as defined in Ind. Code § 6-1.1-3-23(b)(2)), other than special tools (as defined in Ind. Code § 6-1.1-3-23(b)(8)) and permanently retired depreciable personal property (as defined in Ind. Code § 6-1.1-3-23(b)(5)) that is owned, leased, or used by a mini-mill or an entity that is at least fifty percent (50%) owned by an affiliate of a mini-mill in the production of steel.

Beginning with the January 1, 2023, assessment date, a taxpayer may elect to calculate the true tax value of mini-mill equipment by multiplying the adjusted cost (as defined in Ind. Code § 6-1.1-3-23(b)(1)) by the applicable percentage set forth in the Pool No. 5 depreciation table under Ind. Code § 6-1.1-3-23(c) and (d). This election may be made notwithstanding the Department's rules found in 50 IAC 4.2-4-4, 50 IAC 4.2-4-6, and 50 IAC 4.2-4-7. However, a taxpayer may not make an election if the Department certifies that there are outstanding bond obligations that would be impaired as a result of the election.

The percentage factors in the Pool No. 5 depreciation table automatically reflect all adjustments for depreciation and obsolescence, including abnormal obsolescence, for mini-mill equipment. The equipment is entitled to all exemptions, credits, and deductions for which it qualifies. When a taxpayer makes an election, the 30% floor limitation under 50 IAC 4.2-4-9 does not apply to mini-mill equipment, and the value of the equipment is excluded from the calculation of the 30% floor for the taxpayer's other assessable depreciable personal property in the taxing district.

An election is made by reporting the equipment on a business personal property tax return. The election applies to all of the taxpayer's mini-mill equipment located in the state, whether owned or leased, or used as an integrated part of the equipment. The election is binding on the taxpayer for the assessment date for which it is made.

The Department must prescribe the forms to make the election beginning with the January 1, 2023, assessment date. Any mini-mill equipment acquired by a taxpayer that has made an election is valued under Ind. Code § 6-1.1-3-23.

If 50% or more of the adjusted cost of a taxpayer's property that would be reported in a pool rather than Pool No. 5 is attributable to mini-mill equipment, the taxpayer may elect to calculate the true tax value of all of that property as mini-mill equipment.

Contact Information

Questions may be directed to Jennifer Thuma, Deputy General Counsel, at jthuma@dlgf.in.gov.